

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

* * * * *

UNITED STATES OF AMERICA	*	NO. M-19-CR-859
	*	McAllen, Texas
VS.	*	
	*	3:20 p.m. - 5:52 p.m.
RAMON HIRAM OLIVARES	*	May 14, 2019

* * * * *

ARRAIGNMENT/DETENTION HEARING

BEFORE THE HONORABLE PETER E. ORMSBY
UNITED STATES MAGISTRATE JUDGE

* * * * *

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7 For the Defendant:

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P R O C E E D I N G S

3:20 P.M. - MAY 14, 2019

THE COURT: Okay. Next is Criminal Case No. M-19-859, *United States vs. Ramon Hiram Olivares*.

MR. SWARTZ: Good afternoon, Your Honor.
Andrew Swartz for the United States.

MR. SULLY: Good afternoon, Your Honor.

Chris Sully for Mr. Olivares. We're present and ready.

9 THE COURT: Okay, good afternoon. And we'll
10 start by addressing the arraignment in Mr. Olivares'
11 case.

12 And Mr. Olivares, I do need to ask you
13 questions under oath for purposes of the arraignment.
14 If you'd please raise your right hand, the clerk will
15 place you under oath at this time.

16 COURT CLERK: Do you solemnly swear that on
17 the testimony you're about to give in the case now
18 before the Court will be the truth, the whole truth,
19 and nothing but the truth, so help you God?

20 DEFENDANT OLIVARES: Yes.

21 THE COURT: Okay. And Mr. Sully, did you have
22 an announcement as to the arraignment for Mr. Olivares?

23 MR. SULLY: Yes, Your Honor. I've gone over
24 the Indictment with him. I believe he's mentally
25 competent, I believe he understands what he is charged

1 with and the possible ranges of punishment. I believe
2 that he intends to waive the reading of the Indictment
3 and enter a plea of not guilty to all the charges, Your
4 Honor.

5 THE COURT: Okay, thank you.

6 And sir, again to confirm your name is
7 correctly reflected on the Indictment, it is Ramon
8 Hiram Olivares; is that right?

9 DEFENDANT OLIVARES: Yes.

10 THE COURT: And, sir, you have been able to
11 review the Indictment with your attorney and discuss
12 the charges alleged in the Indictment with him?

13 DEFENDANT OLIVARES: Yes.

14 THE COURT: And you've been also -- are you
15 able to understand the nature of the charges in the
16 Indictment and also able to understand the possible
17 penalties that could be imposed as to those?

18 DEFENDANT OLIVARES: Yes.

19 THE COURT: And, sir, I understand you wish to
20 waive the reading of the Indictment. As you probably
21 heard me just mention to the gentleman just before you,
22 it just means we won't read it out loud in court here
23 this afternoon. Is that correct, you wish to waive
24 that?

25 DEFENDANT OLIVARES: Yes.

1 THE COURT: And I understand also you wish to
2 plead not guilty. And again, I just need to have you
3 announce your plea at this time. How do you wish to
4 plead to the charges in the Indictment, guilty or not
5 guilty?

6 DEFENDANT OLIVARES: Not guilty.

7 THE COURT: I do find that Mr. Olivares is
8 competent for purposes of this arraignment based on the
9 representation of counsel. He's entered pleas of not
10 guilty as to the charges being alleged in the
11 Indictment. His case is assigned to Judge Hinojosa. I
12 think Final Pretrial Conference is set for July 1st at
13 9:30. Jury selection is set for July 2nd at 9:30. The
14 deadline for motions is May 28. The Government's
15 responses will be due June 17th. And the deadline for
16 Motions for Continuance will be June 17th. So those
17 dates will control further proceedings as to this case.

18 And again, Mr. Olivares, your attorney
19 will be able to help you in addressing your case on
20 that schedule or otherwise assist you going forward
21 with this.

22 We also need to address the issue of bond
23 as to Mr. Olivares. In his case there's no presumption
24 against bond that would apply, so the burden remains
25 with the Government as far as moving forward on the

1 issue of bond.

2 I will take notice of the factual
3 information as set out in the Pretrial Services Report
4 except to the extent as clarified or corrected in
5 connection with the hearing.

6 And Mr. Swartz, what's the Government's
7 position on bond at this time as to Mr. Olivares?

8 MR. SWARTZ: Your Honor, the Government moves
9 for detention on grounds that the defendant is a
10 flight risk and there's no condition or combination of
11 conditions to reasonably secure his appearance at
12 future proceedings. In support of that, the Government
13 has here to testify today Special Agent Joshua Banuelos
14 with the FBI.

15 THE COURT: Okay. And you do want to go ahead
16 and call the agent to testify?

17 MR. SWARTZ: Yes, Your Honor.

18 THE COURT: Okay, so we'll go ahead and take
19 that up.

20 And Mr. Olivares, you can have a seat at
21 counsel table with your attorney and we'll go forward
22 with the hearing.

23 COURT CLERK: Please raise your right hand.
24 Do you solemnly swear that on the testimony you're
25 about to give in the case now before the Court will be

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1 the truth, the whole truth, and nothing but the truth,
2 so help you God?

3 THE WITNESS: I do.

4 THE COURT: You can go ahead and proceed.

5 **AGENT JOSHUA BANUELOS, CALLED BY THE GOVERNMENT**

6 **DIRECT EXAMINATION**

7 **BY MR. SWARTZ:**

8 Q. Good afternoon.

9 A. Good afternoon.

10 Q. Would you please state your full name for the
11 record.

12 A. Joshua Banuelos.

13 Q. With whom are you employed?

14 A. With the Federal Bureau of Investigation.

15 Q. What's your title?

16 A. Special Agent.

17 Q. How long have you been a Special Agent with the FBI?

18 A. Nine years.

19 Q. Are you currently assigned to a particular unit
20 within the FBI?

21 A. I'm assigned the squad that investigates violations
22 related to white collar crime, which includes health
23 care fraud and complex financial crimes.

24 Q. How long have you been assigned to that particular
25 squad?

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1 A. I've been assigned to that squad for five years.

2 Q. Was that just within McAllen?

3 A. Yes, sir.

4 Q. Have you worked for the FBI in other locations in
5 the United States?

6 A. I have.

7 Q. Where else?

8 A. I also worked in the Los Angeles Division and I was
9 also assigned to the white collar squad as well.

10 Q. For how long was that?

11 A. Four years.

12 Q. So have you been with the White Collar Crime Unit
13 within the FBI for nine years?

14 A. Yes, sir.

15 Q. Did you conduct an investigation relating to the
16 defendant, Ramon Hiram Olives?

17 A. Yes.

18 Q. Are you familiar with the Indictment that was
19 returned by the Grand Jury against Mr. Olivares?

20 A. Yes.

21 Q. I want to just ask you just some general questions
22 about the Indictment. The first 21 counts of the
23 Indictment are bank fraud; is that correct?

24 A. That's correct.

25 Q. And within the 2012 to 2000 time period -- I'm

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1 sorry, 2012 to 2014 time period, was Mr. Olivares an
2 employee of a home health company called Manos de Oro?

3 A. Yes.

4 Q. And did Mr. Olivares have a bank account with
5 Wells Fargo under a business called Mr. O's Travel?

6 A. Yes, he did.

7 Q. Based on your investigation, did you find that
8 checks to various third parties were deposited into
9 Mr. Olivares' Wells Fargo bank account?

10 A. Yes.

11 Q. Did the checks that were deposited into that
12 account appear to be payroll checks from Manos de Oro
13 to other individuals?

14 MR. SULLY: Objection, leading, Your Honor.

15 THE COURT: Okay. The formal rules of
16 evidence actually don't apply in connection with a bond
17 hearing, but I do think it would be better not to lead.
18 I mean, for background information that's fine, but
19 just as a general matter, that would be better in going
20 forward. So you can go ahead and continue, but keep
21 that in mind, Mr. Swartz.

22 MR. SWARTZ: Thank you, Your Honor.

23 BY MR. SWARTZ:

24 Q. Can you describe for the Court what you noticed
25 about the checks that were deposited into Mr. Olivares'

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1 bank account?

2 A. With certain checks, the payees that we were
3 looking at, on the Memo line or the space where the
4 Memo line would appear on the check, it indicated in
5 some of the checks pay periods, date ranges indicating
6 that they could possibly be payroll checks.

7 Q. The Indictment identifies 21 specific checks; is
8 that correct?

9 A. Yes.

10 Q. Is that all the checks that you identified as being
11 deposited into the Olivares bank account to these third
12 parties?

13 A. No.

14 Q. Approximately how many checks were deposited into
15 the bank account that you identified?

16 A. Several hundred. Over a hundred.

17 Q. And approximately how much money did those checks
18 encompass?

19 A. Between the individuals?

20 Q. Yes.

21 A. Approximately, roughly, about a quarter million
22 dollars.

23 Q. And the Indictment refers to an individual with
24 initials R.P. Who is R.P.?

25 A. That is Rogelio Pena.

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1 Q. And the Indictment identifies an individual with
2 the initials S.B. Who is S.B.?

3 A. That is Soila Benitez.

4 Q. The Indictment identifies an individual with the
5 initials J.G. Who is J.G.?

6 A. That is Jose de la Garza.

7 Q. Now, I want to focus specifically with respect to
8 Mr. Pena with the initials R.P. Approximately how many
9 checks did you identify as being written from Manos de
10 Oro to R.P. that were deposited into Mr. Olivares'
11 Wells Fargo bank account?

12 A. I believe there was approximately 16 checks.

13 Q. And approximately how much money -- what was the
14 total amount of money associated with those 16 checks?

15 A. Approximately -- it would be 48,000, 49,000,
16 approximately.

17 Q. Did you locate and interview Mr. Rogelio Pena?

18 A. We did.

19 Q. Did you ask Mr. Pena whether he had worked at
20 Manos de Oro?

21 A. I did.

22 Q. Did you show Mr. Pena the checks that you
23 identified as being written to him and deposited into
24 Mr. Olivares' bank account?

25 A. We did.

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13

1 Q. What was his response in seeing those checks?

2 A. He had never seen those checks before.

3 Q. Did those checks have signature endorsements on
4 them?

5 A. They did.

6 Q. And who purportedly signed those checks?

7 A. When looking at the checks, it appears that it is a
8 signature that you can make out Rogelio Pena.

9 Q. And did you ask Mr. Pena about the signature on
10 those checks?

11 A. We did.

12 Q. What did he say?

13 A. That that was not his signature.

14 Q. Did Mr. Pena provide you with any information about
15 where he was working during the 2012 to 2014 time
16 period?

17 A. Yes, he indicated to us that he was employed as a
18 professor at a university in Mexico during the time
19 frame.

20 Q. And did the checks associated with Mr. Pena, or at
21 least had Mr. Pena's name on it and that were deposited
22 into the Olivares bank account, did those checks appear
23 to be payroll checks?

24 A. Some of them were referenced pay date ranges on
25 them on the Memo line.

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1 Q. And did Mr. Pena say whether he ever worked at
2 Manos de Oro?

3 A. He said he had not worked for Manos de Oro.

4 Q. Did Mr. Pena say anything about Mr. Olivares ever
5 asking for his Social Security number?

6 A. He told -- provided statements to us that he
7 recalled his wife providing a Social Security number to
8 Mr. Olivares.

9 Q. And what was the basis -- what did
10 Mr. Olivares' (sic) wife say about the basis for
11 requesting a Social Security number?

12 A. According to Mr. Pena, his wife had a conversation
13 with Mr. Olivares with regards to Mr. Olivares
14 requesting a Social Security number of Mr. Pena because
15 he was purported to be an employee with the U.S.
16 Government and he wanted to inquire on the Social
17 Security number of Mr. Pena related to some sort of
18 visa or passport inquiry. Those were Mr. Pena's
19 statements to us.

20 Q. Okay. And I think when I asked the question, I
21 misspoke and I said, "What did Mr. Olivares' wife say?"
22 What did Mr. Pena's wife say?

23 A. Yes, that's what Mr. Pena advised us that that was
24 the conversation between his wife and Mr. Olivares.

25 Q. During the course of conducting the investigation

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1 into this case, did you locate a Facebook account
2 associated with Mr. Olivares?

3 A. We did.

4 Q. Did the Facebook account for Mr. Olivares say
5 anything about an employer?

6 A. Yes.

7 Q. What did the employer say on his Facebook account?

8 A. On his employment status with the Facebook account,
9 it indicated "U.S. Government."

10 Q. And turn to the individual identified in the
11 Indictment as with the initials S.B., and you indicated
12 that was Ms. Benitez?

13 A. Yes, sir.

14 Q. Approximately how many checks did you identify as
15 being written from Manos de Oro to Ms. Benitez that
16 were deposited into Mr. Olivares' Wells Fargo bank
17 account?

18 A. Approximately maybe 20, approximately.

19 Q. And approximately what was the sum, the dollar sum
20 associated with those checks?

21 A. The ones that we initially found indicated
22 anywhere -- they ranged starting at 10,000 and then we
23 later discovered there were additional ones that
24 accumulated total of approximately 30,000.

25 Q. Did you locate and interview Ms. Benitez?

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1 A. We did.

2 Q. Did Ms. Benitez say whether or not she had worked
3 for Manos de Oro?

4 A. She advised us that she was not an employee or
5 never employed with Manos de Oro?

6 Q. Did you show Ms. Benitez the checks that were
7 purportedly from Manos de Oro written out to her that
8 were deposited into the Olivares bank account?

9 A. We did show her the checks.

10 Q. What was her response in seeing those checks?

11 A. She indicated to us that up until we showed her
12 those checks on that date, she had never seen those
13 checks before.

14 Q. Did those checks have endorsements on them?

15 A. Yes.

16 Q. And did you -- what purportedly was the signature
17 endorsement on those checks?

18 A. So the signatures on the reverse side on the
19 endorsement of the check appeared to be that of
20 Ms. Soila Benitez, and an additional signature appeared
21 to be that of Mr. Olivares.

22 Q. Did you show Ms. Benitez the signature that
23 purported to be of her?

24 A. We did.

25 Q. What was her response to seeing that signature?

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1 A. She told us that that was not her signature.

2 Q. And did she say specifically why she did not
3 believe that to be her signature?

4 A. Yes, she advised us that the signature on the back
5 of the check endorsement was in cursive handwriting and
6 Ms. Benitez testified to us that she did not know how
7 to write in cursive, which at time she pulled out her
8 driver's license voluntarily, displayed it to us with
9 the signature block having her signature written in
10 print.

11 Q. Now, did you ask Ms. Benitez whether she knew the
12 owner of Manos de Oro?

13 A. We did, and she indicated to us that she did not
14 know the owner of Manos de Oro.

15 Q. Did she say whether she ever worked for the owner
16 of Manos de Oro?

17 A. No. We asked her if she held any position with
18 Manos de Oro or outside Manos de Oro, such as
19 housekeeping, caretaking, or any other side job for the
20 owner of Manos de Oro, which she responded that she did
21 not.

22 Q. I don't think I asked you this question about
23 Mr. Rogelio Pena. Did you ask Mr. Pena if he knew the
24 owner of Manos de Oro?

25 A. We did, and he also indicated to us that he did not

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1 know the owner or recall meeting the owner of Manos de
2 Oro.

3 Q. Did Mr. Pena say whether he'd ever provided any
4 handyman or contract services for the owner of Manos de
5 Oro?

6 A. No. His comments to us was he never worked any
7 type of handyman type of job description in the Rio
8 Grande Valley.

9 Q. Now, the individual with the initials J.G., you
10 indicated that was Mr. Jose de la Garza?

11 A. Yes, sir.

12 Q. With respect to Mr. De la Garza, did you look at
13 checks that were deposited into the Olivares bank
14 account that were purportedly issued for Manos de Oro
15 to Mr. De la Garza?

16 A. We did.

17 Q. Approximately how many checks?

18 A. It was approximately in the range of the thirties
19 checks, I believe.

20 Q. And what was the dollar amount associated with
21 those checks?

22 A. Approximately \$100,000.

23 Q. Did you locate and interview Mr. De la Garza?

24 A. We did.

25 Q. Did Mr. De la Garza say whether or not he had ever

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1 worked for Manos de Oro?

2 A. He said that he did not work for Manos de Oro.

3 Q. Did you show the checks to Mr. De la Garza?

4 A. We did.

5 Q. And what was his response to seeing the checks?

6 A. He was a bit taken aback, but he also indicated
7 that he had never seen the checks. We also showed him
8 the signature on the back, as we did with the other
9 individuals, and which he told us that the signature on
10 the back, the endorsement on the back of the check was
11 not his.

12 Q. And did you ask Mr. De la Garza whether he had ever
13 worked for the owner of Manos de Oro?

14 A. We did.

15 Q. What did he say?

16 A. He said he had not worked for the owner Manos de
17 Oro and did not recall meeting her. And also any type
18 of odd jobs or handyman work, he did not perform for
19 the owner of Manos de Oro.

20 Q. Now, did the name Dora Olivares ever come up in
21 your investigation?

22 A. Yes.

23 Q. Who do you understand Dora Olivares to be?

24 A. That is Mr. Ramon Hiram Olivares' sister.

25 Q. During that 2012 to 2014 time period, was it your

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20

1 understanding that Ms. Olivares was married to Jose de
2 la Garza?

3 A. Yes.

4 Q. And is that the same Jose de la Garza whose checks
5 we've been discussing?

6 A. Yes, sir.

7 Q. And during the investigation, did investigators
8 find checks issued from Manos de Oro that were payable
9 to Dora Olivares?

10 A. We did.

11 Q. Were there checks from Manos de Oro to Dora
12 Olivares deposited into Hiram Olivares' bank account?

13 A. Yes, there was.

14 Q. Were there instances where there were checks to
15 both Jose de la Garza and Dora Olivares deposited into
16 the Hiram Olivares bank account at the same time?

17 A. Yes.

18 MR. SWARTZ: May I approach the witness, Your
19 Honor?

20 THE COURT: Yes, sir.

21 **[Pause]**

22 MR. SWARTZ: Your Honor, I'm handing the
23 witness what's been marked as Government's Exhibit 1.

24 BY MR. SWARTZ:

25 Q. What is Government's Exhibit 1?

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1 A. This is a deposit slip for the Wells Fargo bank
2 account of Mr. O's Travel that indicates a copy of the
3 deposit slip with the corresponding checks associated
4 with the deposit.

5 Q. And were these -- is this a deposit slip for checks
6 deposited into Mr. Olivares' bank account at Wells
7 Fargo?

8 A. Yes, sir.

9 Q. I'd like you to turn --and is the total amount
10 \$11,131.34?

11 A. Yes.

12 Q. I'd like you to turn to the first check. What is
13 that check?

14 A. It's a check payable to Mr. Rogelio R. Pena from
15 Manos de Oro in the amount of \$3,000.

16 Q. Would this be one of the checks that you showed to
17 Mr. Pena?

18 A. It was.

19 Q. And is this one of the checks that Mr. Pena said he
20 did not receive?

21 A. That's correct.

22 Q. And the signature on the check to Mr. Pena, what
23 did he say about that signature?

24 A. He advised us that that was not his signature.

25 Q. And the signature below that, who do you understand

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1 that to be?

2 A. It appeared to be that of Mr. Olivares.

3 Q. And the stamped "Mr. O's Travel, For Deposit Only,"
4 what do you understand Mr. O's Travel to be?

5 A. Mr. O's Travel is a business account that is owned
6 by Mr. Olivares.

7 Q. And there's a name and address on the check. The
8 address states 927 South Washington, Mercedes, Texas
9 78570. What do you understand that address to be?

10 A. We understand that address to be that of
11 Mr. Olivares' parents.

12 Q. And now if you turn the page, is that a check to
13 Jose Rene de la Garza?

14 A. Yes, sir.

15 Q. And would this be one of the checks that you showed
16 to Mr. De la Garza?

17 A. Yes, it is.

18 Q. What did he say about this and the other checks you
19 showed him?

20 A. Mr. De la Garza indicated to us that the
21 endorsement on the back of the check was not his and he
22 did not really -- he did not authorize the signature.

23 Q. And there's a name and address on the check. The
24 address is 927 South Washington Avenue, Mercedes,
25 Texas. What do you understand that address to be?

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23

1 A. We understand that to be the address of
2 Mr. Olivares' parents.

3 Q. I'd like to turn the page. Is that a check to Dora
4 Olivares?

5 A. Yes, sir.

6 Q. And what is the address for Dora Olivares on that
7 check?

8 A. The address on there is 927 South Washington
9 Avenue --

10 MR. SULLY: Your Honor, we would object to
11 relevance. That's not one of the payees that's listed
12 in the Indictment, so there's no point in trying to
13 bring that up.

14 THE COURT: Okay. I'm going to go ahead and
15 allow it since it's related to the sequence of events
16 here. You can go ahead.

17 BY MR. SWARTZ:

18 Q. So, for those checks all at the same address, do
19 those checks also list in the Memo line a pay period?

20 A. Yes, sir.

21 Q. And is it all the same pay period?

22 A. Yes.

23 Q. And then the last check, who is that check to?

24 A. The check is payable to Esmeralda Trevino.

25 Q. Who do you understand Esmeralda Trevino to be?

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24

1 A. We understand that to be a very close friend of
2 Mr. Olivares'.

3 MR. SULLY: Same objection, Your Honor.
4 That's not one of the payees in the Indictment.

5 THE COURT: Okay, that's overruled.

6 BY MR. SWARTZ:

7 Q. And does Ms. Olivares have a connection to the
8 individual that's identified in the money laundering
9 count of the Indictment?

10 A. Ms. Olivares?

11 Q. I mean, I'm sorry, not Ms. Olivares. Ms. Trevino.

12 A. She also received checks from Manos de Oro that
13 were deposited into Mr. O's Travel Wells Fargo bank
14 account.

15 Q. And does she have a connection to a Mr. Virgil
16 Carillo?

17 A. She does.

18 Q. What's the connection to Mr. Virgil Carillo?

19 A. So Ms. Trevino's daughter shares a child with
20 Mr. Carillo. I do not recall if they're officially
21 married, but it could be indicated that she is Virgil's
22 mother-in-law.

23 Q. And is Mr. Carillo the individual that's identified
24 as "CC-1" in the money laundering conspiracy count of
25 the Indictment?

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25

1 A. Yes.

2 Q. Did you attempt to interview Ms. Dora Olivares?

3 A. We did.

4 Q. Could you just describe for the Court the various
5 attempts you made to interview Ms. Olivares?

6 A. We made multiple attempts. Initially, we visited
7 the address at 927 South Washington Avenue, Mercedes,
8 Texas, in which we left a business card at the door
9 requesting her to contact us. We did not receive a
10 call back within a reasonable amount of time, which was
11 a period of days.

12 We visited a second time, in which that time
13 we made contact which we believed to be Ms. and
14 Mr. Olivares' father, in which we specified that we
15 wanted to -- we were requesting to speak to
16 Mr. Olivares; provided him with an additional business
17 card, if I recall; and he advised us that he would
18 forward the message because Mr. Olivares was out of
19 town at that time.

20 When we did not receive a call back, we
21 visited again within a few days. Mr. Olivares, her
22 father, advised us that she actually was staying a
23 little bit past the initial time frame, but he told us
24 that she was returning and that she would -- that he
25 would pass along the message as soon as she got back

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1 into town.

2 Q. And referring back to Government's Exhibit 1, the
3 check to Ms. Olivares, the amount of the check in
4 Government's Exhibit 1 to Ms. Olivares is \$1,881.34; is
5 that right?

6 A. Correct.

7 Q. Now, were there numerous checks issued from Manos
8 de Oro to Ms. Olivares?

9 A. Yes.

10 Q. And were there amounts greater than that \$1800
11 issued to Ms. Olivares?

12 A. Yes, there were.

13 Q. What would the amounts go up to?

14 A. They ranged up to \$3,000 up to \$5,000, if I recall
15 correctly

16 Q. And did those checks also have the same pay period
17 Memo line?

18 A. Yes.

19 Q. And would that be a two-week pay period?

20 A. Yes, sir.

21 Q. During the course of your investigation, did you
22 also speak with a representative of Wells Fargo Bank?

23 A. We did.

24 Q. Did Wells Fargo Bank state whether they would have
25 accepted checks if they knew that the endorsement of

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1 the payee on the checks was forged?

2 A. We were advised by the Subject Matter expert by
3 Wells Fargo Bank that they would not have accepted
4 third-party checks into the account if they had
5 knowledge that the endorsements had been forged.

6 Q. And did the representative of Wells Fargo say
7 whether Wells Fargo would have accepted the checks if
8 the payees had not authorized Mr. Olivares to deposit
9 the checks into his account?

10 A. They would not have accepted them.

11 Q. Now I want to turn to Count 22 of the Indictment,
12 which is the money laundering conspiracy. You
13 indicated that the individual identified as "CC-1" in
14 the Indictment is a Mr. Virgil Carillo?

15 A. Yes.

16 Q. Was Mr. Carillo charged with any offenses recently?

17 A. He was charged with some drug related offenses with
18 another federal agency.

19 Q. Was it drug trafficking charges?

20 A. I believe so.

21 Q. Did you have an opportunity to interview
22 Mr. Carillo?

23 A. We did.

24 Q. Did Mr. Carillo state whether or not he was
25 involved in drug trafficking?

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1 A. He did.

2 Q. Did he state whether or not his father was involved
3 in drug trafficking?

4 A. Yes, he's indicated that his family had a known
5 history of drug trafficking.

6 Q. Did he state whether or not his uncle was involved
7 in drug trafficking?

8 A. I believe so.

9 Q. Now, earlier you mentioned that Ms. Esmeralda
10 Trevino, was that Mr. Carillo's mother-in-law?

11 A. Yes, sir.

12 Q. Did you have the opportunity to interview
13 Ms. Trevino?

14 A. We did.

15 Q. Did Ms. Trevino say whether or not she was aware
16 that Mr. Carillo was involved with drug trafficking?

17 A. Yes, she told us that she knew of his history, his
18 past, and also his family relatives involved in the
19 same type of illegal activity.

20 Q. And Ms. Esmeralda Trevino is Mr. Olivares' best
21 friend?

22 A. She indicated to us that they were very good
23 friends.

24 Q. Now, at some point, based on your investigation,
25 did Mr. Olivares approach Mr. Carillo with a

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1 proposition?

2 A. During the investigation, that is what we were
3 advised.

4 Q. Could you describe for the Court what you learned
5 about that proposition?

6 A. So we learned that at a social gathering, that
7 Mr. Olivares and Mr. Carillo had a conversation with
8 regards to Mr. Olivares being able to put Mr. Carillo
9 on the payroll of Manos de Oro as -- that it would
10 appear that he would be an employee of that company.
11 With Mr. Carillo's current status or history of drug
12 trafficking, they came up with an agreement that
13 Mr. Carillo would take his illegal proceeds and
14 exchange them with Mr. Olivares -- would exchange a
15 check from Manos de Oro for the exact same amount. So,
16 if Mr. Olivares had a check from Manos de Oro payable
17 to Mr. Carillo in the amount of \$5,000, Mr. Olivares
18 would provide Mr. Carillo the check; and in return,
19 Mr. Carillo provided \$5,000 cash to Mr. Olivares.

20 Q. And through the course of your investigation, did
21 you identify checks that were issued from Manos de Oro
22 to Mr. Carillo?

23 A. We did.

24 Q. Can you describe for the Court where those checks
25 were deposited?

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1 A. They were deposited into Mr. O's Travel account.

2 Q. Were there also checks deposited into the bank
3 account of Mr. Carillo?

4 A. Yes, there were.

5 Q. And were the checks to Mr. Carillo, were they made
6 to look like payroll checks?

7 A. Some of them had the pay period dates on them.

8 Q. Now, when you interviewed Mr. Carillo, did he say
9 whether or not he was ever actually an employee of
10 Manos de Oro?

11 A. He indicated --

12 MR. SULLY: Objection. That would be covered
13 by the proffer agreement, so they wouldn't be able to
14 go into Mr. Olivares' statement -- or I'm sorry, it
15 wasn't Mr. Olivares' statement.

16 THE COURT: I think he's talk about
17 Mr. Carillo's statement.

18 MR. SULLY: Very well.

19 BY MR. SWARTZ:

20 Q. You may answer.

21 A. Can you repeat the question?

22 Q. Sure. When you interviewed Mr. Carillo, did he
23 ever say whether or not he was an employee of Manos de
24 Oro?

25 A. He advised us that he was never an employee of

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1 Manos de Oro and that he never even visited the
2 business of Manos de Oro.

3 Q. Did Mr. Carillo even know where Manos de Oro was?

4 A. He advised us he did not know where Manos de Oro
5 was located.

6 Q. Did you, through the course of your investigation,
7 have the opportunity to interview employees as to
8 whether or not they had ever seen Mr. Carillo at Manos
9 de Oro?

10 A. We attempted to interview employees that we
11 identified during the time frame of what would have
12 purported to have been Mr. Carillo's duration of
13 employment. We talked to a few ex-employees of Manos
14 de Oro, who did not recall the name of Mr. Carillo; as
15 well as a photo shown to them, that they did not
16 recognize the individual in the photo.

17 Q. You mentioned Ms. Esmeralda Trevino earlier. Did
18 you talk to Ms. Trevino about Mr. Carillo?

19 A. We did.

20 Q. Did Ms. Trevino say whether or not she was employed
21 at Manos de Oro?

22 A. She said she was an employee of Manos de Oro.

23 Q. Did you ask her about Mr. Carillo being employed at
24 Manos de Oro?

25 A. We did.

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1 Q. What did she say?

2 A. She said that Mr. Carillo was an employee of Manos
3 de Oro. And she also indicated to us that because of
4 his history with drug related activities, that she saw
5 that as a good faith that he was trying to turn his
6 life around by receiving a new job.

7 Q. Based on your investigation, did you find
8 Ms. Trevino's statement about Mr. Carillo working at
9 Manos de Oro credible?

10 A. We did not.

11 MR. SULLY: Objection, calls for speculation,
12 Your Honor, regarding his state of mind.

13 THE COURT: Okay. You can go ahead.

14 BY MR. SWARTZ:

15 Q. Did you get the impression that Ms. Trevino was
16 covering for Mr. Carillo?

17 A. We believed that based on information that we had
18 already obtained.

19 Q. Now, did you, through the course of the
20 investigation, also subpoena employment records from
21 Manos de Oro associated with Mr. Carillo?

22 A. We did.

23 Q. Did you subpoena employment records from Manos de
24 Oro associated with Mr. Carillo?

25 A. We did.

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1 Q. Were any employment records provided in response to
2 that subpoena?

3 A. I recall we received a W-2 form from Manos de Oro
4 in relation to his employment, but there was no other
5 documentation provided to us, such as a job application
6 or many of the documents that would have been
7 incorporated with an employee file.

8 Q. I'm going to ask you about Count 23 in the
9 Indictment, which is for false statements. Was
10 Mr. Olivares interviewed at the U.S. Attorney's Office
11 on or around March 29, 2019?

12 A. Yes.

13 Q. Were you present at that interview?

14 A. I was.

15 Q. Was Mr. Olivares accompanied by his counsel,
16 Mr. Sully?

17 A. He was.

18 Q. And at that interview, did Mr. Olivares sign a
19 proffer agreement?

20 A. He did.

21 Q. Have you seen the proffer agreement?

22 A. I have.

23 Q. Does the proffer agreement inform Mr. Olivares
24 about the importance of being truthful?

25 A. Yes, there is a paragraph indicating that.

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1 Q. Does the proffer agreement state whether, if
2 Mr. Olivares makes materially false statements, he
3 could be charged with a false statement?

4 A. It does.

5 Q. During the interview, did Mr. Olivares make
6 materially false statements?

7 A. Yes.

8 Q. What did -- did you ask -- during the interview,
9 did you ask Mr. Olivares about Jose de la Garza?

10 A. We did.

11 Q. And what did Mr. Olivares say about Jose de la
12 Garza?

13 A. That that was his ex-brother-in-law and that Mr.
14 De la Garza was not employed with Manos de Oro, but
15 rather performed side jobs or handyman work for the
16 owner of Manor de Oro, which was Ms. Nora Alanis.

17 Q. Based on your investigation, was that statement
18 false?

19 A. Yes.

20 Q. Did you ask Mr. Olivares during that proffer
21 meeting, did you ask him about Rogelio Pena?

22 A. We did.

23 Q. What did he say about Mr. Pena?

24 A. That Mr. Pena also was not a direct employee at
25 Manos de Oro, but rather had worked side jobs or

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1 handyman work for Ms. Nora Alanis.

2 Q. And based on your investigation, was that statement
3 false?

4 A. It was.

5 Q. During that same meeting, did you ask Mr. Olivares
6 about Ms. Soila Benitez?

7 A. We did.

8 Q. What did Mr. Olivares say about Ms. Benitez?

9 A. She told -- excuse me, he advised us that she did
10 not work at Manos de Oro, but she was -- she provided
11 some sort of caretaking or a nanny type job description
12 for Ms. Olivares' children -- I'm sorry, Ms. Alanis'
13 children.

14 Q. Based on your investigation, was that statement
15 false?

16 A. It was.

17 Q. During that same meeting, did you ask Mr. Carillo --
18 I mean, not Mr. Carillo. Did you ask Mr. Olivares
19 about Mr. Carillo?

20 A. We did.

21 Q. What did Mr. Olivares say about Mr. Carillo?

22 A. He indicated that he had known Mr. Carillo and had
23 known him like through social gatherings. We also
24 asked about his employment at Manos de Oro. And if I
25 recall, I believe he said that he was an employee of

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1 Manos de Oro.

2 Q. Based on the investigation, was that statement
3 false?

4 A. It was.

5 Q. Did you ask -- during that same meeting, did you
6 ask Mr. Olivares about the checks that were deposited
7 into the accounts of Jose de la Garza, Rogelio Pena,
8 and Soila Benitez?

9 A. We asked about those checks, yes.

10 Q. Did you ask what Mr. Olivares did with the funds
11 from those checks?

12 A. He advised us that after the checks were deposited
13 into his business account, he would issue the funds for
14 those check amounts and then provided those funds in
15 cash to the payees, which would have been Ms. Benitez,
16 Mr. Pena, and Mr. De la Garza.

17 Q. Based on your investigation, was that statement
18 false?

19 A. It was.

20 Q. Now, during -- at any point in the investigation,
21 has Mr. Olivares cooperated with the Government?

22 A. No.

23 Q. Now, I asked you earlier about Ms. Esmeralda
24 Trevino. At some point did Mr. Olivares and
25 Ms. Trevino share a bank account?

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1 A. They did.

2 Q. And roughly what time period is that?

3 A. Approximately 2015, if I recall.

4 Q. I want to turn to kind of ask some just general
5 questions about Mr. Olivares. Based on your
6 investigation, where was Mr. Olivares born?

7 A. In Mexico.

8 Q. And did you have occasion to obtain or attempt to
9 obtain an address for Mr. Olivares?

10 A. We did.

11 Q. What was the address that you obtained for him?

12 A. The address we obtained was 927 South Washington in
13 Mercedes.

14 Q. Did you go to that address?

15 A. We did.

16 Q. Did you speak to someone at that address?

17 A. We did.

18 Q. Who was it?

19 A. We spoke to Mr. Olivares' father.

20 Q. Did Mr. Olivares' father say anything about whether
21 or not Mr. Olivares lived at that address?

22 A. We asked Mr. Olivares if he lived there, and if I
23 recall, Mr. Olivares' father replied that he wasn't
24 home at the time, and that he also indicated that he
25 kind of comes and goes and stays at the house

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1 occasionally, but also visits Mexico and stays in
2 Mexico.

3 Q. During the course of attempting to locate
4 Mr. Olivares, did you also find an address associated
5 with Mr. Olivares' cell phone?

6 A. We did. After failed attempts into locating
7 Mr. Olivares at the address on South Washington, we
8 visited an address in Pharr that had been tied to
9 Mr. Olivares' cell phone number, although the date
10 purported was historic and dated. Since we were unable
11 to locate Mr. Olivares at his house, we went ahead and
12 covered that lead and made contact with a female at
13 that residence.

14 Q. And did the female at that residence indicate
15 whether she was familiar with Mr. Olivares?

16 A. She did. She indicated that she knew him.

17 Q. And did you discuss with the female at that
18 residence that Mr. Olivares' cell phone was associated
19 with the address at that residence?

20 A. Yes, the female was inquiring of us as to why we
21 were even at her house since Mr. Olivares did not live
22 there. I shared with her a bit of information that
23 this address had been listed on his cell phone for a
24 period back, which she expressed concern as to why his
25 cell phone was tied to her address.

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1 Q. What was the reaction of the female as to learning
2 that his cell phone was associated with that address?

3 A. She was concerned, but we did ask her if she would
4 be willing to attempt to call Mr. Olivares in an
5 attempt for us to make contact with him, in which she
6 agreed to.

7 Q. And what happened?

8 A. She made the phone call and a male on the line
9 answered on the other line, which purported to have
10 been Mr. Olivares, but it was a bad connection. It
11 appeared as she was trying to say hello and
12 Mr. Olivares, or purportedly Mr. Olivares, also
13 responding in hellos back and forth not really hearing
14 each other.

15 Q. And had you tried to contact Mr. Olivares at that
16 phone number?

17 A. Yes. I called a few minutes after we left that
18 residence and I also received the same type of
19 interaction that the female had with Mr. Olivares. And
20 then we attempted to call him a couple more minutes and
21 there was no answer.

22 Q. I asked you earlier about a Facebook page
23 associated with Mr. Olivares. At any time looking at
24 that Facebook page, were there instances where
25 Mr. Olivares tied himself at being at a particular

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1 location?

2 A. Yes, we reviewed the Facebook profile and there was
3 postings with family relatives in addition to him being
4 tied to Facebook in Nuevo Progreso.

5 Q. So, based on the Facebook pages you looked at,
6 there were instances where Mr. Olivares was tied as
7 being in Mexico?

8 A. Yes, sir.

9 Q. During the course of your investigation, did you
10 also obtain border crossings associated with
11 Mr. Olivares?

12 A. We did.

13 Q. Now, do the -- what information generally does the
14 border crossing reports show?

15 A. Generally, it will show the plate number that was
16 captured for the inbound crossing, but also captures
17 the Port of Entry code number associated with that
18 port. It also captures the time that the crossing
19 occurs. And in addition, depending on the information
20 that's provided in that database, it may provide a date
21 of birth.

22 Q. Now, did you look at the border crossings
23 associated with Mr. Olivares for the kind of year
24 leading up to the Indictment?

25 A. We did.

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1 Q. Approximately how many border crossings does it
2 show for Mr. Olivares for that year period?

3 A. I believe it was approximately 246 or 264.

4 Q. Was that all from one Port of Entry or multiple
5 Ports of Entry?

6 A. There were multiple Ports of Entry.

7 Q. What Ports of Entry do you remember?

8 A. There was the Hidalgo Port of Entry, Anzalduas, the
9 Port of Entry in Brownsville, as well as the Progreso
10 Port of Entry.

11 Q. The border crossing reports, does it show the time
12 of entry?

13 A. It does.

14 Q. Did you notice anything unusual about the times of
15 entry associated with Mr. Olivares?

16 A. Yes. The inbound crossings typically were in the
17 very late evening into the early morning hours. So
18 anywhere at a timing from 11:30 to 2:00 a.m. --
19 11:30 p.m. to 2:00 a.m.

20 Q. Based on reviewing the border crossing history,
21 were there instances where Mr. Olivares entered the
22 United States multiple times in a day?

23 A. Yes.

24 Q. Approximately how many times did Mr. Olivares enter
25 the United States say twice on the same day?

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1 A. There were a few instances that we received
2 information on that.

3 Q. Were there instances where Mr. Olivares entered the
4 United States three times in one day?

5 A. Yes.

6 Q. For any of those occasions where he entered the
7 United States three times in one day, were there
8 instances where Mr. Olivares entered the United States
9 on that same day through multiple ports of entry?

10 A. Yes, we -- the records indicated that there was
11 some cases that there was three entries into the United
12 States within the same day, they were all -- or not
13 all, but there were some where they were done at
14 different Ports of Entry in the same day.

15 Q. And during your investigation, you reviewed the
16 bank accounts associated with Mr. Olivares?

17 A. Yes.

18 Q. Did you notice anything unusual about withdrawals
19 from Mr. Olivares' account?

20 A. So, through analysis of the bank account, when we
21 would see deposits occurring, which were related to the
22 checks that we were investigating, withdrawals followed
23 those deposits and the withdrawals were at multiple
24 branch locations occurring on the same day.

25 Q. What were some of the amounts of those withdrawals

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1 that you remember seeing?

2 A. They varied, anywhere from \$1,000 up to \$3,000,
3 \$4,000, but they were cumulative of over \$10,000 in
4 some instances.

5 Q. Based on your investigation, did Wells Fargo have
6 concerns about that withdrawal pattern?

7 A. They did.

8 Q. What were some of those concerns you identified
9 through the course of your investigation?

10 A. The concerns were the multiple withdrawals in a
11 single day at various branch locations throughout the
12 Rio Grande Valley, in addition to the third-party
13 checks being deposited into the business account.

14 Q. Now, having conducted the investigation,
15 Mr. Banuelos, are you aware of any condition or
16 combination of conditions that you think would secure
17 Mr. Olivares' appearance at future appearances?

18 MR. SULLY: Objection, Your Honor, asks for an
19 improper opinion. That's the Court's purview.

20 THE COURT: Okay. I mean, we probably don't
21 need him to opine on that since that's a decision the
22 Court would have to make, Mr. Swartz.

23 MR. SWARTZ: Thank you, Your Honor.

24 BY MR. SWARTZ:

25 Q. Is the individual you understand to be Mr. Olivares

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1 in the courtroom today?

2 A. Yes.

3 Q. Could you please point out and identify an article
4 of clothing he's wearing, Mr. Ramon Hiram Olivares?

5 A. Yes, he's wearing a red tee shirt.

6 MR. SWARTZ: Your Honor, may the record
7 reflect the witness has identified the defendant?

8 THE COURT: Okay. Yes, it will.

9 MR. SWARTZ: Pass the witness, Your Honor.

10 THE COURT: Okay. Mr. Sully, do you have any
11 questions?

12 MR. SULLY: Yes, thank you, Your Honor.

13 THE COURT: Okay. Yes, sir.

14 **CROSS-EXAMINATION**

15 **BY MR. SULLY:**

16 Q. Good afternoon, Special Agent Banuelos.

17 A. Good afternoon.

18 Q. Before I follow up on some of those topics, have
19 you written or reviewed any reports regarding the
20 topics that you testified about today?

21 A. Have I read and reviewed reports? Yes, sir.

22 Q. All right, do you have them with you today?

23 A. I do not.

24 MR. SULLY: Your Honor, we believe we're
25 entitled to those reports under Rule 26.2, I believe,

1 before we can cross-examine the witness. Otherwise,
2 his testimony should be struck.

3 MR. SWARTZ: Your Honor, in response, reports
4 of witness interviews are not statements under *Jencks*
5 or 26.2. They're not statements that Mr. Banuelos has
6 made himself.

7 In addition, since we are at sort of a
8 preliminary proceeding, basically, Mr. Sully is asking
9 for discovery. We're not -- this is the very stage of
10 the proceeding. Rule 46 allows for good cause to allow
11 the witness to go forward without complying with Rule
12 26.2.

13 MR. SULLY: Your Honor, if I may respond, Rule
14 26.2 specifically applies to a detention hearing. It's
15 not trying to get discovery outside of what's required.
16 And if he wrote reports himself, that would definitely
17 be his own statement. But the rule talks about
18 statements that he adopts even if they're not his own
19 statements that he originally made. So he has done
20 that, he's basically repeated the hearsay statements
21 of other people. He's basically adopted them and
22 presented them as truth to the Court. So we're
23 entitled to see those statements that he's adopting on
24 whatever form they're recorded on. Otherwise, we can't
25 fully cross-examine him.

1 MR. SWARTZ: And, Your Honor, the Fifth
2 Circuit case, *U.S. vs. Martinez*, which is 87 F.3d, 731,
3 at 735 through 736, a case from 1996, the Court in that
4 case held that it was clear error for the Court to
5 order the Government to produce reports of witness
6 interviews when the report was not a verbatim
7 transcript and the report was not a statement within
8 the meaning of *Jencks*, and would also be 26.2.

9 THE COURT: And what was the cite of that
10 again, Mr. Swartz?

11 MR. SWARTZ: *U.S. vs. Martinez*, 87 F.3d, 731,
12 at 735 to 736. And that's a Fifth Circuit 1996 case.

13 THE COURT: Okay. And Mr. Sully, the rule, of
14 course, states -- refers to a statement of the witness.
15 And as you mentioned, that includes statements that
16 the witness has adopted. But I don't think that means
17 adopted in the sense that the witness agrees with the
18 statements or simply is testifying as to what, you
19 know, other people have said in the investigation. And
20 I think the cases in other hearings like this where we
21 have explored this issue, the cases suggests that that
22 adoption is in a context where, for example, two people
23 go to interview somebody and one of the individuals
24 writes a report, the other individual ends up
25 testifying, and that individual is actually there, but

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1 he's adopted the report as his report. He was also
2 there as opposed to just any time an agent agrees with
3 something or relies on something that, you know, some
4 other agent has come up with.

5 So, for purposes of the hearing right now,
6 the ruling is going to be that unless you establish
7 that Mr. -- that Special Agent Banuelos has his own --
8 reviewed his own statement in connection with this
9 hearing and relied on that, then as to other types of
10 statements that are just, you know, included in the
11 investigation, I'm not going to require those to be
12 produced for purposes of the Probable Cause Hearing.

13 However, if there is any other authority
14 that you want to present on that, I would be willing to
15 consider that and re-open the hearing to require that
16 if it would seem that that's the legally correct thing
17 to do here. But that's -- I'm just going to make that
18 ruling right now based on my understanding of what the
19 law is in the context of other hearings. But if you
20 want to pursue that further, I'd certainly be willing
21 to consider that any other authority might have on
22 that. But I don't think you've established that
23 there's any statement of the witness that he's relying
24 on as far as his testimony here. So I'm not sure
25 there's anything right now that we would have that

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1 would need to be presented. But if you want to ask
2 more questions to develop that further, you can do that.

3 MR. SULLY: Yes, Your Honor. Thank you.

4 BY MR. SULLY:

5 Q. To clarify, Special Agent, have you yourself
6 written reports in connection with this case?

7 A. Yes. They were also co-authored.

8 Q. And how many reports have you authored or
9 co-authored?

10 A. I can't recall the exact number at this time.

11 Q. Do you know approximately? Are we talking about
12 two or three?

13 A. No, there would be approximately maybe 20 or 30
14 reports.

15 Q. And have you provided testimony, say for example,
16 to the Grand Jury in connection with this case?

17 A. No.

18 MR. SULLY: Your Honor, we understand the
19 Court's ruling as to other people's reports or
20 statements, but if he himself has written 20 to 30
21 reports, then we believe that those would fall within
22 the rule. Otherwise, the rule would be completely
23 eviscerated, Your Honor. So we would ask to either for
24 those to be produced or for his testimony be struck.

25 THE COURT: Well, and are you asking for a

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1 continuance? Because, obviously, he doesn't have
2 statements with him anyway. Or how do you suggest we
3 proceed?

4 MR. SULLY: I believe the only solution is to
5 strike his testimony, Your Honor, because otherwise the
6 Government is going to get another continuance.
7 They've already continued this from Friday. They've
8 kept Mr. Olivares detained over Mother's Day weekend.
9 They knew -- they know about the rule, they know that
10 he's written 20 or 30 reports. They shouldn't get to
11 prolong his attention simply because they're
12 withholding reports that the rule requires, Your Honor.

13 And the alternative, having to
14 cross-examine him without those reports and the Court
15 considering what he said without the opportunity to
16 fully cross-examine on the reports, would deprive us of
17 the ability to cross-examine this witness and confront
18 this witness, Your Honor. So we're not asking for a
19 continuance, we're just asking for that testimony to be
20 struck unless the Government can comply with that
21 today, Your Honor.

22 THE COURT: Well, the rule indicates that any
23 statement of the witness that is in their possession.
24 Are you saying that that implies that the witness has
25 to bring any report with him? And if so, what do you

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1 base that on?

2 MR. SULLY: Yes, Your Honor, possession would
3 be the constructive possession if they can bring it to
4 court. Otherwise, they could simply get around the
5 rule by saying, "Well, as long as I don't have it in my
6 pocket or at the stand, then I won't have to produce
7 it." So the rule is basically possession of something
8 that they have access to. He's indicated that he has
9 access to it and he could have brought it to court or
10 he could bring it to court. He just for whatever
11 reason didn't.

12 MR. SWARTZ: Your Honor, if I could just
13 inject one other point. So, basically, what Mr. Sully
14 is asking, not for testimony that Mr. Banuelos
15 provided, but he's asking for every report that
16 Mr. Banuelos prepared in this case that is a summary of
17 what other individuals said. They're not statements
18 that Mr. Banuelos said. It's a report of statements
19 that other individuals said. And so he's basically
20 asking for the Government to provide discovery of
21 every report to verify Mr. Banuelos in this case.

22 With respect to that request specifically,
23 even though 26.2 does apply to detention hearings,
24 Rule 46(j) specifically allows the Court to allow a
25 witness to testify without producing the reports to

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1 comply with Rule 26 where there's good cause to show.

2 And the 1993 amendment note to Rule 46(j)
3 states, "The Committee recognized that pretrial
4 detention hearings are often held very early in the
5 prosecution and that a particular witness's statement
6 may not yet be on file, or even known about. Thus, the
7 amendment recognizes that in a particular case, the
8 court may decide that good cause exists for not
9 applying the rule."

10 So, even if the rule applies to his
11 summary of what other people say, the Court can allow
12 for good cause Mr. Banuelos can go forward and testify
13 because we're very early in the case, discovery has not
14 occurred yet, and it doesn't make sense to delay the
15 detention hearing for Mr. Sully to conduct discovery.

16 THE COURT: Okay. So I'm going to defer
17 ruling on the issue of whether the testimony should be
18 struck and direct counsel to submit any authority that
19 would support that in this context. And at this point
20 the witness does not have any statements with him, so
21 that's where we are.

22 So, Mr. Sully, I'll leave it this way. Do
23 you wish to go forward with cross-examination subject
24 to the Court possibly later requiring the Government to
25 produce the statements, or possibly ruling that the

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1 statements should be struck, or possibly ruling that it
2 wasn't necessary to produce the statements in this
3 context? So how do you want to handle that?

4 MR. SULLY: Your Honor, in light of the
5 Court's ruling, I'd like to continue with the hearing
6 so I don't necessarily prolong Mr. Olivares' detention.
7 So I'd like to continue with the cross-examination with
8 what I have and present what we have for today, Your
9 Honor.

10 THE COURT: Okay. And we'll discuss a little
11 bit later just a schedule for submitting any briefing
12 as far as those issues that we were just discussing.

13 Okay, you can go ahead and proceed, then.

14 MR. SULLY: Thank you, Your Honor.

15 BY MR. SULLY:

16 Q. Special Agent, I'd like to start with -- there are
17 a lot of topics that you've covered, obviously, but
18 with your communications with Mr. Olivares. When was
19 the first time that you or any other agency in
20 connection with this case first tried to get in contact
21 with Mr. Olivares?

22 A. I tried to make contact with Mr. Olivares in March
23 of 2019.

24 Q. Okay, and that was you personally, right, in March
25 of this year?

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1 A. Yes, sir.

2 Q. But before that, as early as January of this year,
3 one of the deputy marshals had already made contact
4 with Mr. Olivares; right?

5 A. That's correct.

6 Q. And as part of the investigation, you spoke with
7 that deputy marshal and got the information from that;
8 right?

9 A. Yes, we received a copy of that -- or the summary
10 of that interview.

11 Q. And so back in January was the first time that
12 someone from the Government spoke to the Mr. Olivares
13 about this investigation and asked him questions about
14 it; right?

15 A. To my knowledge.

16 Q. As far as the topics that they talked about, were
17 they pretty similar to the ones that were talked about
18 during the March interview that you testified about?

19 A. They were similar topics, but I believe the one in
20 January was not as in-depth with the one that occurred
21 in March.

22 Q. Do you know how long the one in January, how long
23 that conversation interview lasted?

24 A. I do not, no, sir.

25 Q. What about the one in March, do you remember how

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1 long that one was?

2 A. It was a couple of hours, as I recall.

3 Q. And so in January deputies talked to him, and then
4 again in March was when you asked for an interview and
5 then you got the interview, you said, a couple of weeks
6 after that; right?

7 A. I believe the interview occurred a week or two
8 after we were contacted by defense counsel -- or by
9 you, sir.

10 Q. Right. So the March interview, you said that
11 lasted about a couple of hours. And without going
12 into, you know, details about what was said, there were
13 other topics or other questions besides the ones that
14 you've testified about; right?

15 A. There were other topics discussed, as I recall.

16 Q. And as far as the other answers that Mr. Olivares
17 gave or the other topics that were covered, there's no
18 allegation that any of those statements were false?

19 A. Not to my knowledge.

20 Q. And as far as the responses that he gave during the
21 January interview to your colleagues with the Marshal's
22 Office, as far as you know, there's no allegations that
23 anything he said during that interview was false either?

24 A. Some of the statements that were -- that I read
25 through that were similar to the questions we asked

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1 regarding some of the checks that were in question.

2 And I don't have a copy of the report with me, but if I
3 recall correctly, that Mr. Olivares had indicated that
4 he did deposit the third-party checks into his account
5 in the January interview.

6 Q. So you're saying that he did deposit -- that he
7 admitted during the January interview that he did
8 deposit checks into his account?

9 A. I believe he made comments to that.

10 Q. Okay. But you don't believe that to be false; in
11 fact, that's what you're saying happened, that the
12 checks were deposited into the account?

13 A. Correct. But in addition, I believe he provided
14 additional statements when they asked him as to his
15 reasoning behind depositing those items into his bank
16 account. And also that having the signatures of the
17 payees and on the endorsements on the back were covered
18 as well.

19 Q. Okay. So, basically, the questions you testified
20 about in March, if those same questions were covered in
21 January, then you would have --

22 A. To some degree. But again, because I was not part
23 of that interview, I don't know what questions directly
24 were asked to Mr. Olivares or in what specific detail.

25 Q. Okay. Fair enough. But at least as early as

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1 January of this year, it would have been clear to
2 Mr. Olivares that he was under investigation by --

3 A. I can't speculate as to what the nature of those
4 agents telling Mr. Olivares at that interview, whether
5 or not he was a subject or if he was a witness or if
6 they were simply looking for a statement. I don't
7 know.

8 Q. Okay. But regarding the questions that were asked
9 in March, or questions that were asked about
10 Mr. Olivares, regardless of whether you remember the
11 word "subject" or "target" or not was used, the
12 questions that were being asked were investigating
13 Mr. Olivares personally; correct? The questions
14 weren't all about other people?

15 A. In the March interview we did ask questions about
16 other individuals related to his previous employment in
17 relation to the owner of Manos de Oro, if I recall, and
18 some other individuals that were associated with other
19 home health companies. Because I recall he mentioned
20 doctor visits and things of that nature that we found
21 out at the time. And then additionally, we asked other
22 questions regarding the checks and individuals that he
23 knew or purported to have known.

24 Q. Okay.

25 A. So there were various topics covered.

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1 Q. Right. I guess what I'm saying is that obviously a
2 lot of the questions were about him and not just about
3 other people, but his own bank transactions and things
4 like that?

5 A. Well, what his firsthand knowledge was of
6 interaction with individuals and companies and doctors.

7 Q. Okay. And so that interview was back in March and
8 you were the agent who went to arrest or take custody
9 of Mr. Olivares; right?

10 A. Yes, I was.

11 Q. And that was last Thursday, the 9th; correct?

12 A. It would have been into Friday morning, if I'm
13 recalling, yes.

14 Q. Late night or early morning?

15 A. Yes, sir.

16 Q. Okay. And so during that time between January and
17 when you arrested Mr. Olivares this month, he didn't,
18 you know, go to live in Mexico or not come back, or you
19 don't have any information that he essentially fled the
20 jurisdiction?

21 A. We reviewed the border crossings and the border
22 crossings were consistent with the pattern that -- or a
23 pattern that he established even the year leading up to
24 the date of the arrest.

25 Q. So the border crossings, let's talk about that.

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1 The border crossings you testified to, they were for
2 last year's, so 2018, or --

3 A. We went back to 2017 up until the date of the
4 arrest.

5 Q. Okay. And you said it was pretty consistent from
6 2017 up to the arrest in May of 2019?

7 A. Yes. What I meant was that there was numerous
8 crossings that occurred on a consistent basis.

9 Q. Okay. So it didn't start after Government agents
10 first interviewed Mr. Olivares, it was pretty much a
11 consistent pattern since at least 2017?

12 A. Yes. I believe Mr. Swartz asked, the year leading
13 up to the arrest, there was I believe approximately 246
14 to 264 crossings for that whole year.

15 Q. Okay. And so you said sometimes there would be --
16 the crossings, though, how long -- he'd basically leave
17 and come back the same day or like in the middle of the
18 night the next day or what was the time frame you said
19 on those crossings?

20 A. And so a review of the records indicated that
21 either he crossed back into the United States very
22 late in the evening, which I'm referring to close to
23 midnight. In addition, if it wasn't at that time, it
24 would be 1:00, maybe 2:00, even 3:00 in the morning.
25 And then on some instances on that same day there was

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1 another inbound crossing maybe at 8:00, 9:00, or 10:00
2 in the morning, which would conclude to us that maybe
3 he would have gone back into Mexico only to cross again
4 to have been captured on that report.

5 Q. Okay. But we're not talking about like multi-day
6 trips where he's gone for days or weeks and then comes
7 back later?

8 A. No, there were some breaks inbetween sometimes. So
9 on an average week there might have been anywhere from
10 four to five crossings throughout the day, even more
11 because if he crossed more than one time. But
12 reviewing the records on some of the weekends, there
13 would be no activity.

14 Q. Okay. And you said the crossings, they're based on
15 the license plate and sometimes date of birth. So are
16 the crossings associated with a particular vehicle or
17 with him personally or --

18 A. They were associated with the plate numbers. So,
19 when I refer to the date of birth, when we are
20 searching the database, we can either search the
21 database through the license plate number. In
22 addition, we can plug in a unique identifiers also
23 because if it may be a plate that might have been
24 re-issued or just to kind of we put as much information
25 as we can to get a more detailed return.

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1 Q. Did you bring an actual copy of the crossings with
2 you or --

3 A. I did not.

4 Q. Okay. So you don't know like how many of those
5 crossings exactly are based on the license plate number
6 versus an actual date of birth?

7 A. Well, so, when we -- the license plate on the
8 vehicle recently changed to a new plate in mid-April, I
9 believe April 19th, a temporary tag. At least that's
10 what our system reported because the previous one had
11 expired. When we ran the database search, we initially
12 ran the initial license plate number that we had on
13 file believed to be that of Mr. Olivares.

14 In addition, because that data was historical
15 in years, we also inputted the date of birth and name
16 of the individual. And that is because sometimes when
17 you just plug in a plate, you may not get a full
18 return.

19 In addition to that, when we were running a
20 search for a week or two-week time frame and we knew
21 that the vehicle or license plate number had changed,
22 we inputted the new vehicle plate number and received
23 that history.

24 Q. Maybe I didn't ask the question --

25 A. Oh, I'm sorry.

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1 Q. -- correctly enough. What I meant was, do you
2 know, for the crossings you're testifying to, how many
3 of them were associated with a particular vehicle as
4 opposed to associated --

5 A. They would all be associated with the plate number.

6 Q. They're all associated with the plate number?

7 A. Yes. So, when we look at the chart, it will
8 respond the name in some cases of who may be tied to
9 that plate, which may also return a result of a date of
10 birth.

11 Q. Okay. But the actual crossing history doesn't tell
12 you who was in the car at the time, it just tells you
13 if the car came and went?

14 A. Correct, and the number of passengers, if I'm not
15 mistaken.

16 Q. Okay. But it won't identify like the actual names
17 of passengers, or what?

18 A. It will not, not to my knowledge.

19 Q. So far as crossings, you don't actually know who
20 was in the car however many times it had crossed?

21 A. Well, when we also did another search in the
22 database, we ran the search only with Mr. Olivares'
23 name and date of birth and received the same results to
24 compare them.

25 Q. And that's based on actually identifying the person

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1 in the car or just the fact that the car is associated
2 with him?

3 A. Just that it's associated with him. So it
4 identifies the Mr. Olivares that we plugged into the
5 database.

6 Q. So that again is just telling you that that
7 particular car is associated with Mr. Olivares?

8 A. That's correct.

9 Q. Okay, not necessarily that he was in the car at
10 that particular moment?

11 A. The report will not tell us -- no, it will not give
12 us that information.

13 Q. Okay. Now, as far as the -- as far as Mr. Olivares
14 himself, are you aware that he has -- his maternal
15 grandmother's sister lives in Progreso?

16 A. I'm not aware of the exact relations, other than
17 we've received information that he has family relatives
18 in Mexico.

19 Q. Okay. But you don't know any specifics as far as --

20 A. No, sir.

21 Q. -- what relatives he has there?

22 A. No.

23 Q. But as far as his parents, you were able to verify
24 that they are both citizens and the both live at the
25 address that you testified about, right, from your

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1 statement?

2 A. Well, yes, we made contact with Mr. Olivares'
3 father at the address in Mercedes.

4 Q. And that was one of the ways in which you got
5 contact with Mr. Olivares himself, right, was through
6 his father?

7 A. That's correct.

8 Q. And as far as Mr. Olivares himself, you've also
9 verified that he's a citizen; right?

10 A. Yes. When we obtained that information, I believe
11 he also mentioned to us that he had been naturalized
12 approximately four years ago.

13 Q. Did you verify his employment history and also his
14 residence, that he's been living in the United States
15 for several decades now?

16 A. So, when we did an open source database search, the
17 primary address that was repeatedly being returned was
18 the 927 South Washington address. We did also verify --
19 we ran a records check through the Texas Workforce
20 Commission and saw multiple employers I believe to be
21 related in the home health industry or health care
22 industry.

23 Q. Did you also verify that he had worked as a teacher
24 before some of those employments in the health care
25 field?

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1 A. When we ran the report, we did not receive that
2 result, but that's not to say that he did not work
3 there. It's just not the information that was returned
4 in the result.

5 Q. Got it. Were you able to verify that he doesn't
6 have any criminal history?

7 A. Yes, we ran a criminal history check and we did not
8 find a criminal history on Mr. Olivares.

9 Q. All right. Now, going back to the information you
10 talked about regarding the allegations in the
11 Indictment, without going necessarily all one by one,
12 basically, you testified that a lot of these people
13 said they didn't work for Manos de Oro when you asked
14 them about the checks, right, or when they were asked
15 about the checks?

16 A. Correct.

17 Q. Did you -- did you check and see or were you aware
18 that these people had in fact declared income from
19 Manos de Oro on their tax returns? Did you check any
20 of that information?

21 A. So we were not able to obtain tax returns. We did
22 request them from the individuals, but we did not
23 receive them back from the individuals, and through
24 other means we were unsuccessful in receiving the tax
25 returns.

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1 Q. So at this point all you have as far as whether or
2 not they worked for Manos de Oro or for the owner of
3 Manos de Oro in some other capacity is basically them
4 saying what they stated?

5 A. In addition, when we did subpoena Manos de Oro for
6 any employee files associated with them, we only
7 received one file back, that of Mr. De la Garza. Manor
8 de Oro advised us they had no record of any other
9 individuals that we subpoenaed as an employee of that
10 business.

11 Q. Is that the one you said that you received a W-2,
12 but not other information?

13 A. So we received a W-2 from Mr. Carillo that was
14 obtained through a subpoena, if I recall.

15 Q. Okay. And you said that you didn't receive like
16 job application or other types of employment records
17 besides the W-2. Is that for Mr. Carillo or --

18 A. That was for Mr. Carillo. Now, when we requested
19 any and all documents associated with any employment
20 on, for example, Ms. Benitez or Mr. Pena and other
21 individuals, we did not receive any return back on
22 anything to include a W-2. Some of those -- so some of
23 those files were not -- were not existent or not
24 produced by Manos de Oro because they advised us that
25 they did not have those records.

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1 Q. In your investigation, were you able to determine
2 whether Manos de Oro always gets a written job
3 application before hiring somebody, if that's something
4 you would expect to see or not?

5 A. Well, when talked to the owners of Manos de Oro,
6 the ownership had changed by the time or at the time
7 that we were investigating. So, as far as the job
8 applications being received during that time frame was
9 not what -- or excuse me, could have been different
10 from when the new owners advised us how they were
11 accepting job applications.

12 Q. So the owners now, at the time that you were
13 requesting records from Manos de Oro, aren't the same
14 owners for the time period that's talked about in the
15 Indictment; correct?

16 A. That's correct, they are different.

17 Q. So they may not have all the records that they
18 previous owner had at the time?

19 A. Well, they advised us that they had obtained what
20 they believed to have been every record from the
21 previous owner, which was Ms. Nora Alanis, which also
22 indicated, I believe, some storage unit that had all
23 the files since the inception of Manos de Oro. So they
24 were given access to that information

25 Q. Did you speak with the owner during this time

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1 period, Ms. Alanis, to try to verify any of this
2 information?

3 A. We did not.

4 Q. So you haven't been able -- have you been able to
5 check with anybody who was involved during this time
6 period with Manos de Oro regarding, for example,
7 whether these people were employed or not?

8 A. Well, we verified -- or excuse me, we interviewed
9 employees, which are now ex-employees of Manos de Oro,
10 during the time frame of which those individuals would
11 have also been employed at that time. We gave them
12 names, which they advised us that they did not recall
13 the names. Mr. Carillo's circumstance also, either we
14 provided Mr. Carillo's name to see if they recalled the
15 name. In some cases I did not provide a name and,
16 rather, just showed a photo to see if they recognize a
17 photo, in which they responded that they had no
18 recollection of that individual ever working there.

19 Q. And these people that you spoke to that were
20 employees during this time period, were any of their --
21 were they named in any of the checks that were
22 deposited into the account?

23 A. No.

24 Q. Now, as far as the time frame for these
25 transactions, the latest one listed in the Indictment

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1 was in 2013; correct? September of 2013?

2 A. I'd have to see a copy, but I believe so.

3 Q. Okay. And then as far as -- those are the bank
4 fraud counts, 21 through -- sorry, 1 through 21. As
5 far as Count 22, the money laundering account, what
6 were the time frames for the checks in that count?

7 A. I believe they began in 2013 and went into the year
8 of 2014.

9 Q. Okay. Now, as far as the -- one thing, you said
10 you asked people whether they worked for Manos de Oro.
11 But as far as checking to see whether people worked for
12 the owner, Ms. Alanis, personally, there was one person
13 you said, I believe it was Ms. Benitez, that she -- you
14 investigated whether she worked as a nanny for the
15 owner of Manos de Oro at the time, Ms. Alanis; right?

16 A. That's correct. We asked her if she had been
17 employed as a nanny or caretaker of some sort for
18 Ms. Alanis' children.

19 Q. And besides asking her, did you verify or try to
20 verify with anybody else whether Ms. Benitez had been
21 involved as a nanny or something similar with
22 Ms. Alanis' children?

23 A. So we asked her if she had been employed by any
24 manner with Ms. Alanis or the owner of Manos de Oro,
25 and she indicated that she had never been employed or

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1 did that type of work for any individual.

2 Q. And as far as Ms. Benitez and some of these other
3 people, do you know what their immigration status is?

4 A. So Mr. Pena, he's able to cross into the United
5 States, so I believe he has some sort of visa
6 permission. Mr. De la Garza resides in the United
7 States, as well as Ms. Benitez.

8 Q. So they're both residents, but Mr. Pena just has a
9 visa. Do you know if that's a work visa or just --

10 A. I do not know.

11 MR. SWARTZ: Your Honor, I object to the
12 relevance of getting the immigration status of the
13 individuals identified.

14 THE COURT: Okay. Well, he's answered
15 already, so --

16 BY MR. SULLY:

17 Q. As far as whether Mr. Pena worked as a handyman or
18 Ms. Benitez worked as a nanny, were you able to ask
19 Ms. Alanis or anybody else about that?

20 A. No, we did not -- we did not make contact with
21 Ms. Alanis, so we did not obtain her statement in
22 regards to that information.

23 Q. Did you try to make contact with her or you just
24 didn't make the attempt?

25 A. We did not make the attempt.

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1 Q. And why -- did you not think it was important to
2 try to verify this information with Ms. Alanis herself
3 as the one who purportedly employed these people?

4 A. I believe Ms. Alanis has been questioned or maybe
5 involved in some sort of litigation in the
6 investigation, so I did not make contact for those
7 reasons.

8 Q. Okay.

9 A. She might have. Also, she might have had attorney
10 representation as well, but I did not make contact
11 based on the information I advised.

12 Q. But basically, you're not sure what the reason was,
13 but you didn't attempt to contact her?

14 A. I did not attempt to contact Ms. Alanis.

15 Q. Okay. The Facebook page that you talked about,
16 did you bring a copy of it with you or were you just
17 testifying from your memory of what --

18 A. From my memory.

19 Q. And as far as it -- I mean, it's been your
20 experience sometimes when people put things on Facebook
21 that sometimes it's a joke or not always everything
22 that's there literal as far as, you know, what they do
23 or what their employment is?

24 A. I can't give an opinion on what other people have
25 put on their posts, other than what I just would review

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1 and present that as obtained.

2 Q. Okay. As far as the Facebook page that you said
3 you believe is Mr. Olivares, how do you know that
4 that's his actual Facebook page and not either a
5 different person or somebody trying to -- I forgot the
6 word -- catfish or essentially copy somebody's
7 information?

8 A. Sure. So, reviewing the Facebook profile, there
9 are several photos of Hiram on there where he's also
10 tagged with photos of family members, as well as I
11 believe there might have been one related to a
12 baptismal or a communion of somebody. So, if it's not
13 his and if it's someone else pretending to be his,
14 they've obtained personal information and appearing to
15 be Mr. Olivares.

16 Q. And so the Facebook page showed, I guess, locations
17 and events that he had been at recently, for example,
18 like baptism?

19 A. Yes, if I recall correctly.

20 Q. Did the posts have any information about the
21 locations? Did they pretty much continue up until his
22 arrest or did they stop at any point disclosing, you
23 know --

24 A. They were periodically. I mean, some of them
25 appeared to be daily and then in other instances there

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1 would be breaks inbetween. Some of the posts were
2 quotes and primarily all in Spanish.

3 Q. But it wasn't like the page was taken down or any
4 of his location information after he was first
5 interviewed by --

6 A. Not to my knowledge.

7 Q. The information that you said was based on speaking
8 to, for example, Mr. Pena, Mr. Pena told you that he
9 didn't work as a handyman for Ms. Alanis, right?
10 That's how you --

11 A. That's what he advised us, yes.

12 Q. What evidence do you have that Mr. Olivares knew
13 that, that he didn't believe that he had actually
14 worked as a handyman?

15 MR. SWARTZ: Objection, asked and answered.

16 THE COURT: You can go ahead and answer if you
17 know, Special Agent Banuelos.

18 THE WITNESS: Can you repeat the question,
19 please?

20 BY MR. SULLY:

21 Q. Let me clarify. For example, do you have any
22 evidence to show that Ms. Alanis didn't tell
23 Mr. Olivares that Mr. Pena worked for her as a handyman
24 and that he honestly believed that that was the case
25 even if it turned out he was mistaken?

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1 A. We had the information that Mr. Pena told us that
2 he had not provided any type of handyman work in the
3 Rio Grande Valley. And during the time frame of the
4 pay periods that appeared on the payroll or what
5 appeared to be payroll checks of Manos de Oro to
6 Mr. Pena, he provided pay stubs from his employment in
7 Mexico, which would be a conflict or at least
8 purporting to be working at two places at the same time.

9 Q. But did he say that Mr. Olivares knew about the pay
10 stubs in Mexico or knew that, for example, Mr. Pena
11 told Mr. Olivares, "I don't work, I've never worked for
12 Ms. Alanis"?

13 MR. SWARTZ: Objection, asked and answered,
14 Your Honor.

15 THE COURT: You can answer if you know.

16 THE WITNESS: Can you repeat the question, I'm
17 sorry? Did I know if Mr. Pena --

18 BY MR. SULLY:

19 Q. Yeah, let me clarify. I know I didn't ask it very
20 clearly. At any point did Mr. Pena tell you that he
21 had told Mr. Olivares that he, in fact, did not work
22 for Ms. Alanis as a handyman or things like that?

23 A. I don't know if he had a conversation with
24 Mr. Olivares about that, if that's what you're asking.

25 Q. Was he ever asked by any of the agents whether he

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1 informed --

2 A. When we -- during our interview, he mentioned that
3 his interaction with Mr. Olivares was actually very
4 minimal, very rare. When the times that he happened
5 to visit Mr. Olivares' parents at their house on South
6 Washington, if Hiram wasn't there, you know, he didn't
7 ask about him. But if Hiram showed up, it was just
8 kind of a "hi" and that was it. So, to that point, we
9 asked him what his interaction was with Hiram, and he
10 said it was very, very minimal.

11 Q. Okay. And then, for example, Ms. Benitez, was she
12 ever asked whether she told Mr. Olivares that she was
13 not in fact a nanny for Ms. Alanis' children?

14 A. I don't recall.

15 Q. So do you have any evidence that Mr. Olivares knew
16 that what he was telling you about him believing that
17 Mr. Pena was a handyman or Ms. Benitez was a nanny,
18 that he knew that that wasn't true, as opposed to
19 actually believing that to be the case?

20 A. I guess that would go to the checks, that if he
21 was -- obtaining the checks from Manos de Oro and
22 giving them to -- or excuse me, depositing the checks
23 and forging their signatures to give them the money,
24 then that would indicate -- or I guess that would not
25 indicate, if anything, specifically related to that.

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1 I'm not privy to what his knowledge would have been,
2 what the conversations would have been with those
3 individuals. So I don't know that.

4 Q. And you don't know whether Ms. Alanis told
5 Mr. Olivares that Mr. Pena and Ms. Benitez actually did
6 work for her in those capacities?

7 A. We did not speak to her.

8 Q. As far as the -- you said that you believe that
9 Mr. Olivares wasn't being truthful when he said that he
10 gave these people, for example, Mr. Pena and
11 Ms. Benitez, the money from the checks. Other than
12 Mr. -- other than the people, say like Mr. Pena and
13 Ms. Benitez, do you have any evidence that they did not
14 in fact receive that cash?

15 A. So we have their statements and then we attempted
16 to actually obtain bank statements to corroborate that,
17 because of the time frame of when this report happened,
18 retention periods of banks, either that information was
19 not provided to us because it did not exist.

20 Q. Okay.

21 A. We did ask the individuals also if they would be
22 able to obtain their own copies, at which they said
23 they would attempt to look for them as well. But
24 because it had been a long period of time, they were
25 unsuccessful.

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1 Q. So you don't know how much cash was deposited into
2 their accounts during these time periods?

3 A. We do not know that as far as a visual view of the
4 bank analysis, other than their description. But they
5 also mentioned to us that they did not receive a single
6 dollar from Mr. Olivares at any point in time.

7 Q. So you don't have any actual records from the bank
8 to say that either way?

9 A. From those individuals, we do not.

10 Q. As far as the bank, Wells Fargo, I think you said
11 something about that they expressed some concerns about
12 third party checks being deposited into the business
13 account.

14 A. Or suspicious activity, rather.

15 Q. Okay. Do you know if Wells Fargo rejected any of
16 these transactions that they're now telling you that
17 they felt were suspicious or a concern?

18 A. Yes, there was a series of deposit that
19 incorporated checks as they had previously. Wells
20 Fargo rejected that deposit at that point. It's my
21 understanding that they refused all deposits from that
22 point on that were from the third parties that were
23 from the individuals listed.

24 Q. Okay. Obviously, not any of the checks listed in
25 the Indictment, right? Those were checks that were

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1 actually --

2 A. Those were deposited, yes, sir.

3 Q. -- deposited by Wells Fargo.

4 And as far as that business account that
5 you've been testifying about, that account is no longer
6 in use as of today or as of recently?

7 A. I believe that's correct.

8 MR. SULLY: I'll pass the witness, Your Honor.

9 THE COURT: Okay.

10 MR. SWARTZ: Your Honor, just a few follow-up
11 questions.

12 THE COURT: Okay.

13 **REDIRECT EXAMINATION**

14 **BY MR. SWARTZ:**

15 Q. You were asked about the border crossings; do you
16 remember that, Agent Banuelos?

17 A. Yes, sir.

18 Q. And you testified that you ran a search in the
19 crossing database associated with the name, the birth
20 date of Mr. Olivares?

21 A. Correct.

22 Q. And you also had a plate number associated with
23 Mr. Olivares?

24 A. We did.

25 Q. Now, when Mr. Olivares was taken into custody,

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1 where was he arrested?

2 A. He was arrested at the Progreso Port of Entry.

3 Q. And did you receive an alert from the Border Patrol
4 Officers at that port of entry basically associated
5 with Mr. Olivares?

6 A. Yes. When we -- we placed an alert into the
7 database and specified the two license plate numbers
8 that we had associated with Mr. Olivares. And when the
9 vehicle was captured crossing into the United States,
10 the alert was triggered and contact was made from their
11 office to ours.

12 Q. So the plate number you had for Mr. Olivares
13 matched Mr. Olivares on that occasion?

14 A. It did.

15 Q. And you were asked some questions about the owner
16 of Manos de Oro; do you recall that?

17 A. Yes.

18 Q. And you were asked whether you interviewed the
19 owner of Manos de Oro, Nora Alanis, in connection with
20 this investigation?

21 A. Correct.

22 Q. Is this investigation ongoing?

23 A. It is.

24 Q. Are there other investigative steps and potentially
25 other individuals that remain focuses of the

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1 investigation?

2 A. Yes. And we're not at liberty to comment on
3 ongoing investigations tied to that.

4 Q. You were asked about bank accounts; do you recall
5 that?

6 A. Yes.

7 Q. And you were asked about whether you looked at the
8 bank statements of individuals to whom the checks were
9 written and are identified in the Indictment; do you
10 recall that?

11 A. Yes, I do.

12 Q. Now looking at the statements, the bank
13 statements -- well, first of all, did you look at the
14 bank statements associated with Mr. Olivares?

15 A. We did.

16 Q. Could you see when Mr. Olivares -- or checks were
17 deposited into his account?

18 A. We did.

19 Q. And could you see when withdrawals were made from
20 his account?

21 A. Yes.

22 Q. Could you see the frequency and amount of
23 withdrawals?

24 A. Yes.

25 Q. Did it appear to you that the withdrawals from his

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1 account matched the amount of the checks that were
2 going into his account?

3 A. Cumulative, yes, but the initial amounts may have
4 not. For example, if he withdrew \$1500 at one branch,
5 that might not have been one of the amounts of the
6 check specifically. But the cumulative deposit amount
7 was withdrawn over a series of withdrawals.

8 Q. When you say cumulatively, was it the case that the
9 entire amount that was deposited in his account was
10 eventually withdrawn or spent?

11 A. Yes.

12 Q. Did you see instances where there was a withdrawal
13 that matched the amount of the check associated with
14 Soila Benitez, Rogelio Pena, or Jose de la Garza?

15 A. Yes.

16 Q. How many instances?

17 A. Several. I can't recall the exact amount.

18 Q. The exact amount of the check?

19 A. The ranges averaged anywhere from \$3,000 possibly
20 up to \$5,000.

21 Q. Were there instances you identified in your
22 investigation where the withdrawals or there were
23 checks written after those deposits were made that went
24 elsewhere other than to those individuals?

25 A. That's correct.

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1 Q. You were asked about the address of 927 Washington
2 Avenue. Do you recall that?

3 A. Yes.

4 Q. Now, did you interview an individual -- you
5 testified earlier that you interviewed Jose de la Garza?

6 A. Correct.

7 Q. And he was married at one point to Mr. Hiram
8 Olivares' sister; is that correct?

9 A. Yes.

10 Q. Did Mr. De la Garza say anything about residing at
11 that address, 927 Washington?

12 A. Yes, he said there was a period where he
13 temporarily resided there with his then wife,
14 Mr. Olivares' sister.

15 Q. And during that time period did he say whether or
16 not Mr. Olivares was a permanent resident?

17 A. He indicated to us that Mr. Olivares was -- he
18 would very rarely see him at that residence, and if it
19 was, it was for a very short period of time.

20 Q. And you were asked about verifying the employment
21 of certain individuals. Do you recall that?

22 A. Yes, sir.

23 Q. And with respect to Rogelio Pena, did you -- did
24 Mr. Pena provide you with records showing that he was --
25 during the time that checks were written from Manos de

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1 Oro to him, at least to his name, did you -- did he
2 provide you with records showing that he was employed
3 elsewhere?

4 A. Yes, he provided those.

5 Q. Could you describe for the Court what those records
6 were?

7 A. They were pay stubs from a university or college in
8 Mexico that had his identifiers there and his wages
9 earned for a professor, I believe, in math.

10 MR. SWARTZ: Nothing further, Your Honor.

11 THE COURT: Okay. Mr. Sully, was there
12 anything else?

13 MR. SULLY: Yes, Your Honor. I'll try to make
14 a brief follow-up on that. Thank you, Your Honor.

15 THE COURT: Make it really brief.

16 **RECROSS-EXAMINATION**

17 **BY MR. SULLY:**

18 Q. So I'll try to go quickly. Special Agent,
19 regarding Mr. Pena, you testified that he would be at
20 social gatherings here in the United States sometimes
21 when Mr. Olivares was present?

22 A. Are you referring to Mr. Pena?

23 Q. Yes.

24 A. No, he indicated that because Mr. Pena's wife is
25 related to Mr. Olivares' mother, that very short

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1 circumstance that they may have visited their house off
2 of Washington Street.

3 Q. Okay. So he would be present in the United States,
4 essentially, is what --

5 A. Yes, sir.

6 Q. And do you know what university that he was
7 receiving pay from, where that university was located?

8 A. I don't recall, but it was on the pay stub that we
9 do have record of.

10 Q. Okay. And I believe, was his status that he was a
11 resident or he had a visa?

12 A. I believe he has a visa, but I'm not a hundred
13 percent certain on the exact status of his residency.

14 Q. Okay. As far as the business account, you said
15 that it was associated with a business, Mr. O's Travel?

16 A. Yes, sir.

17 Q. And so with -- in that account, did you see other
18 activity besides these checks that could have been
19 related to that travel agency?

20 A. Not that I recall off of memory, but it is possible
21 in reviewing the records that there may be some. But
22 during the interview of Mr. Olivares, he did say that
23 he had that business for -- or at least he operated it
24 full-time during this hiatus with Manos de Oro.

25 Q. And you don't have any evidence to suggest that

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1 that's not true, that he did in fact operate that?

2 A. No.

3 Q. As far as the -- to clarify, when you said the
4 cumulative amounts matched, so essentially whatever
5 money was coming in from the checks was coming out?

6 A. That's correct.

7 Q. Oh, okay. So it wasn't just staying in the account
8 and not getting withdrawn?

9 A. No, it's either through cash withdrawals, ATM
10 withdrawals, or debit card purchases.

11 Q. As far as when Mr. Olivares was arrested, did he
12 resist arrest in any way?

13 A. No, sir.

14 Q. Did he have any weapons or contraband?

15 A. No.

16 Q. Was he disrespectful or uncooperative with you?

17 A. No, sir.

18 MR. SULLY: I pass the witness, Your Honor.

19 MR. SWARTZ: Nothing further, Your Honor.

20 THE COURT: Just one quick thing. You peaked
21 my interest -- Mr. Sully did with that last question.
22 What kind of debt card purchases were --

23 THE WITNESS: They varied at restaurants,
24 retail stores. There was a couple in Las Vegas as well,
25 and gas purchases, personal expenses.

1 THE COURT: And those were coming out of the
2 same money that was being deposited, as far as you
3 could tell?

4 THE WITNESS: As far as I could tell, yes, sir.

5 THE COURT: Okay. All right, thank you, sir.

6 Mr. Swartz, does the Government wish to
7 present any other evidence?

8 MR. SWARTZ: No other evidence, just argument,
9 Your Honor.

10 THE COURT: And before hearing the
11 Government's argument further, Mr. Sully, did you -- of
12 course, as I mentioned already, I'll take notice of the
13 Pretrial Services Report and the information there.
14 Was there other evidence you wish to present?

15 MR. SULLY: No, Your Honor, we would just have
16 an argument response.

17 THE COURT: Okay. So you can go ahead,
18 Mr. Swartz.

19 MR. SWARTZ: Thank you, Your Honor. Your
20 Honor, 18 U.S.C. 3142(g) basically lists three factors
21 that require the Court to weigh when considering whether
22 there are conditions of release that would reasonably
23 assure the appearance of Mr. Olivares at future
24 appearances. And in this case each factor weighs in
25 favor of detention.

1 The first factor, nature and circumstances
2 of offense charged. The Indictment is 23 counts, 21
3 counts of bank fraud. 18 U.S.C., Section 1344, which
4 has a maximum penalty of 30 years imprisonment. And
5 one count of money laundering conspiracy, which is 18
6 U.S.C., Section 1956, which has a maximum up to 20
7 years imprisonment. One count of false statements
8 under 18 U.S.C. 1001, which has a maximum term of
9 imprisonment of five years. These are serious charges
10 and they could potentially result in a lengthy prison
11 sentence if Mr. Olivares is found guilty. So the first
12 factor, the nature and circumstances of the offense
13 charged, would weigh in favor of detention.

14 The next factor, the weight of the
15 evidence. The Court here heard in significant detail
16 from Agent Banuelos. The Grand Jury in this case was
17 presented with the Indictment. They found probable
18 cause for each of the counts in the Indictment. Agent
19 Banuelos gave the Court some content and a flavor of the
20 evidence. If I could state the evidence, the evidence
21 against Mr. Olivares is significant.

22 So Agent Banuelos testified that during
23 the time period of the bank fraud charges, over a
24 hundred checks were deposited into Mr. Olivares' bank
25 account at Wells Fargo, and those checks were

1 purportedly issued from Manos de Oro to three
2 individuals, and each of those individuals were
3 contacted by agents and they said, "I never worked for
4 Manos de Oro, never received these checks, the
5 signature on the checks and the endorsement is not
6 mine."

7 And looking at just the example of
8 Mr. Rogelio Pena, Mr. Rogelio Pena, as Agent Banuelos
9 testified, is a math or business teacher at a
10 university in Mexico. During the time period in which
11 checks were being found in his name into Mr. Olivares'
12 bank account, Mr. Pena provided pay stubs showing that
13 he was employed as a professor in Mexico. And so he
14 was not employed and he verified what he said from his
15 pay stubs. He was not employed at Manos de Oro.

16 He also indicated that Mr. Olivares had
17 approached his wife and indicated that Mr. Olivares
18 worked for the U.S. Government and said he could verify
19 his Social Security number. And that information is
20 verified in looking at the Facebook post of
21 Mr. Olivares' account. As Special Agent Banuelos
22 testified, the Facebook account lists as employer the
23 U.S. Government. So Mr. Pena, he was basically
24 deceived -- or his wife was deceived in turning over
25 his personal information, his Social Security number.

1 Checks were written in his name, at a time he was
2 employed elsewhere outside the country, and deposited
3 into Mr. Olivares' bank account.

4 The money laundering conspiracy charge,
5 as Special Agent Banuelos testified, Mr. Olivares
6 approached an individual that was known to be a drug
7 trafficker. But Mr. Olivares' good friend, Esmeralda
8 Trevino, admitted to Special Agent Banuelos that she
9 knew that her son-in-law, Virgil Carillo, was a drug
10 trafficker. She knew that his family was involved in
11 drug trafficking. But Mr. Olivares approached a known
12 drug trafficker and offered a proposition: "I'll help
13 you clean your money in exchange for cash." And so it
14 began where Mr. Olivares would provide a check to
15 Mr. Carillo, purportedly a payroll check from Manos de
16 Oro to Mr. Carillo, and then Mr. Carillo would take the
17 check and exchange it with Mr. Olivares for cash.

18 Mr. Carillo -- the company, Manos de Oro,
19 was subpoenaed and asked for phone records associated
20 with Mr. Carillo. They provided nothing. Employees
21 who worked there during that time period were
22 approached by agents and were interviewed. They were
23 shown a picture of Mr. Carillo and asked, "Do you know
24 Mr. Carillo? Did he ever work at Manos de Oro?"

25 They said, "We don't recognize the

1 picture. We don't know him."

2 The only person that said that they
3 recognized Mr. Carillo and supported the assertion
4 that he worked there was his mother-in-law, Esmeralda
5 Trevino. Checks were also issued to her in her name
6 and deposited into Mr. Olivares' bank account, and she
7 shared a bank account with Mr. Olivares.

8 Other facts, the Indictment charges false
9 statements. So Mr. Olivares met at the U.S. Attorney's
10 Office. He had counsel present. He signed a document
11 that emphasized the importance of telling the truth
12 and the fact that if you lie, materially provide false
13 statements, you can be prosecuted under 18 U.S.C. 1001.
14 Even with that, even with counsel present, he proceeded
15 to lie repeatedly.

16 So the weight of the evidence in addition
17 to the probable cause found by the Grand Jury to return
18 an Indictment supports detention in this case.

19 So the final factor is the history and
20 characteristics of the person. There is no question
21 that Mr. Olivares has strong ties to Mexico. He was
22 born in Mexico, he lived in Mexico for the first 15
23 years of his life. He's only been a United States
24 citizen for five years. He has family in Mexico.

25 And investigators have had a difficult

1 time identifying the current residence for Mr. Olivares.
2 The only residence that Mr. Olivares provided was the
3 Washington address, the address of his parents. But
4 one of the witnesses, Jose de la Garza, who lived there
5 at that address for a period of time, said he didn't
6 see Hiram Olivares there. Investigators were not able
7 to connect Mr. Olivares to that address.

8 Mr. Olivares, there was another address
9 associated with him and his cell phone. When agents
10 went to that address, the person at that address knew
11 Mr. Olivares, but was surprised that that address was
12 associated with his cell phone.

13 So the two addresses the agents were able
14 to locate for Mr. Olivares, there's no -- the evidence
15 that agents received from other individuals did not
16 corroborate that he actually lived at those addresses.

17 Now, Mr. Olivares spends a significant
18 amount of time in Mexico. When agents approached
19 Mr. Olivares' father, Mr. Olivares' father said that he
20 stays at that house on 927 Washington occasionally and
21 he spends time in Mexico. The border crossings that
22 Agent Banuelos testified to showed that he goes back
23 and forth between Mexico with incredible frequency,
24 sometimes multiple times per day, and just the border
25 crossings themselves raise a number of red flags.

1 Agent Banuelos testified that in the year preceding
2 his indictment in this case he crossed into the United
3 States, he entered in over 240 times. And he said that
4 sometimes he would enter the United States multiple
5 times on the same day. In at least one instance he
6 entered the United States three times on the same day
7 and he used different ports of entry each time he
8 entered the United States on that occasion.

9 So the number of crossings would not be
10 unusual if you're commuting back and forth for work,
11 but the timing of the crossings are inconsistent with
12 commuting for work. Those crossings, as Agent Banuelos
13 testified, were between the hours of sort of midnight
14 and 2:00 a.m., very early morning, sort of what you
15 don't expect for a commuter crossing.

16 There's also in this case, in terms of the
17 history and characteristics of the person, in case law
18 looking at the factors, Courts often point to deception
19 on being a factor that weighs in favor of detention.
20 In this case there is enormous evidence of deception on
21 the part of Mr. Olivares. As I mentioned earlier, he
22 deceived Mr. Pena's wife into turning over Mr. Pena's
23 Social Security number by saying he was a
24 representative of the U.S. Government. He deceived
25 Wells Fargo Bank by depositing checks that were made

1 out to bank employees and with forged signatures over a
2 hundred times just for those three individuals.

3 Then when he was interviewed by Federal
4 Agents, he lied repeatedly. And Agent Banuelos
5 testified that he lied about very material things in
6 the investigation. He lied about whether these
7 individuals worked for Nora Alanis or worked for Manos
8 de Oro. He lied about whether he gave the cash to
9 those individuals.

10 In the Pretrial Services Report, the
11 information provided by Mr. Olivares, there was a
12 suggestion in there that the frequent crossings relate
13 to a sick relative in Mexico, and that information was
14 reportedly corroborated by Dora Olivares. But as Agent
15 Banuelos testified, Dora Olivares is implicated in this
16 scheme. Checks in her name were also deposited into
17 Mr. Olivares' bank account. Agents tried to locate and
18 interview her unsuccessfully.

19 So Hiram Olivares, who has a history of
20 deception, and Dora Olivares, who is implicated in
21 this scheme, are the only individuals that provided
22 information to Pretrial Services. So the explanation
23 about he's traveling back and forth to care for a sick
24 relative really is not credible because the sources are
25 not credible. And within the context of this case,

1 within the context of assisting drug traffickers with
2 money laundering, with depositing fake payroll checks
3 into bank accounts, the frequency and the nature of
4 those crossings is concerning and alarming, and that
5 weighs in favor of detention.

6 So the history and characteristics,
7 defendant's lack of verifiable address, the frequent
8 unusual border crossings, the pattern of deception all
9 weigh in favor of detention in this case. So the
10 Government has shown that each of those three factors
11 weigh in favor of detention. The Government has shown
12 by a preponderance of the evidence that Hiram Olivares
13 is a flight risk and there's no condition or
14 combination of conditions that would reasonably assure
15 his appearance at future proceedings, and that's the
16 basis for which the Government moves that he be
17 detained pending trial.

18 Thank you, Your Honor.

19 THE COURT: Okay, thank you.

20 Mr. Sully.

21 MR. SULLY: Your Honor, let's just start with
22 the characteristics of Mr. Olivares. As the Court
23 knows, he's a U.S. Citizen. There's obviously not any
24 immigration consequences to any of these charges. He's
25 lived in the United States almost all his life, for the

1 last 27 years. I know the Pretrial Services Report
2 says 20 years, but when I was doing the math based on
3 his age and when he moved here, I believe it's actually
4 27, but the point is it's been a long time.

5 He's worked in the area. He has a long,
6 consistent employment history. He's currently
7 employed. If he's released, he'll be able to return to
8 that job. And he's also been educated here. His
9 family ties are here. Both of his parents reside in
10 the U.S. They're also U.S. Citizens along with his
11 siblings. They're here present to support him.
12 They're willing to assist the Court in any way the
13 Court may need, whether it's third-party custodian or
14 anything else that the Court may ask.

15 And Mr. Olivares has no criminal history.
16 And the allegations, other than the ones regarding his
17 recent interview, are all pretty remote. I believe the
18 last transaction that's listed in the bank fraud count
19 is from 2013, so about six years ago. And with the
20 Count 22, it doesn't specifically list the basic
21 transactions, but it indicates early 2014, so that
22 would also be about five years ago. So even the
23 alleged criminal conduct is pretty remote and there's
24 no allegation other than concerning the interview that
25 he's engaged in any other criminal activity besides

1 what's listed in the Indictment.

2 He's, of course, presumed innocent. At
3 this stage of proceedings there is actually a
4 presumption in favor of release that comes along with
5 that, Your Honor. Nothing about the nature of what
6 he's charged with indicates a risk of flight. He's not
7 charged with escape. He's not charged with any kind of
8 offense that involves dangerousness to the community.
9 They are essentially white collar type offenses, most
10 of which are pretty remote.

11 But what I would like to draw the Court's
12 focus on is the fact that Mr. Olivares was first
13 interviewed -- not just contacted but actually
14 interviewed by Government Agents back in January of
15 this year, so almost five months ago. And he's -- the
16 information he provided was truthful. At least, he's
17 not being charged with having given false statements
18 during that interview.

19 But more importantly, Your Honor, it shows
20 the fact that as early as January he knew that he was
21 somehow involved in a federal investigation, whether as
22 a subject or a target or in some way he was being
23 investigated. Somebody who presents a flight risk
24 would not stick around. If they had the ability and
25 inclination to flee to Mexico, for example, he would

1 already be in Mexico. But he -- not only did he stick
2 around, but he submitted to a subsequent interview
3 with the agents in March. And then he again was asked
4 questions regarding his activities. And again being
5 reminded that he is implicated in an investigation, he
6 still stuck around. Regardless of whether he went to
7 Mexico and came back, he always came back. He never
8 left for an extended period or otherwise tried to flee.
9 There is no evidence that he changed his travel
10 patterns, that he changed his residence, that he
11 changed employment, that he did anything to try to hide
12 from the Government or to try to flee even after this
13 period that he was at least the subject of an
14 investigation.

15 As far as the crossings, the agent's
16 testimony was that they were associated with a
17 particular vehicle or vehicles. I think he said that
18 there were two license plates. And obviously, they
19 knew that Mr. Olivares was in the vehicle the day he
20 was arrested because he was arrested at the bridge and
21 he obviously came back into the United States, didn't
22 try to stay in Mexico knowing that he was a subject of
23 investigation.

24 But as far as all the other crossings,
25 other than the fact that they don't show any change in

1 travel patterns after he was contacted by the
2 Government, the agent testified that they can't be
3 personally linked to Mr. Olivares. So we don't know
4 how many of those are actually Mr. Olivares versus
5 somebody else that he may have loaned the car to. So
6 we can't really draw any conclusions from all of those
7 crossings.

8 But as far as his characteristics, Your
9 Honor, and especially his behavior, his lack of any
10 attempt to hide from the Government even after it
11 became abundantly clear that he was under investigation
12 and might get charged for what he was being
13 investigated about show that he does not -- he is not a
14 risk of flight and there are conditions that can secure
15 his appearance at future court proceedings.

16 As far as the actual offense he's charged
17 with, or offenses, the weight of the evidence, I don't
18 want to take up too much of the Court's time with every
19 single detail since this isn't a trial, but what I do
20 want to point out is that the evidence isn't as strong
21 as it is in some other cases. For example, with the
22 false statements charge, the gist of the charge seems
23 to be that Mr. Olivares says one thing. They talk to
24 somebody else and they say another thing. There's no
25 documents or objective evidence to show who's telling

1 the truth and the Government believes the other person
2 over Mr. Olivares, when it's possible that other people
3 could be not telling the truth. Especially, for
4 example, Mr. Carillo indicated that he made statements
5 while his drug case was pending and obviously would
6 have an incentive to maybe not be fully truthful under
7 those circumstances.

8 But the agent testified that they
9 haven't -- for whatever reason, they don't have the
10 bank statements of these people to see if they actually
11 did receive the cash or not. They don't have the
12 income tax information to see if they were actually
13 earning this income or not. Most importantly, they
14 haven't spoken to the actual owner, the actual employer
15 of these people during that time to see if she employed
16 them or not.

17 And I think there's an important
18 distinction to be made that not all of these are
19 alleged to be actual employees of the Manos de Oro
20 company. Some of them -- the indication was that
21 Mr. Olivares told the agents that he believed, for
22 example, that Mr. Pena had done some handyman services
23 for Ms. Alanis and that that's why he believed that
24 Ms. Alanis was issuing these checks out to Mr. Pena.

25 And the point isn't so much as to whether

1 or not that's actually true. The fact that Mr. Pena
2 may be employed as a professor in Mexico doesn't mean
3 that he couldn't have done handyman services whenever
4 he was present in the United States whenever he was
5 with Ms. Alanis. The evidence that's missing, Your
6 Honor, is any evidence that Mr. Olivares actually
7 believed that statement to be untrue. He could have
8 honestly been mistaken or Ms. Alanis could have told
9 him, "Oh, yes, you know, Mr. Pena does, you know, work
10 for me around the house." He relates that to agents.

11 Whether or not it turns out to be true or
12 not, there's no evidence that he intentionally was
13 trying to mis-relay them as opposed to just relaying
14 what he had heard from Ms. Alanis or other sources.
15 And so far that hasn't been corroborated. The
16 Government said, "Well, this is an ongoing
17 investigation, we're still looking into things." And
18 that's one of the things that at this point they
19 haven't been able to show the Court whether he actually
20 knew that to be true or not and whether he was actually
21 trying to mislead the agents.

22 The same thing as far as the checks.
23 There was evidence regarding that somebody else may
24 have known or believed that Mr. Carillo was a drug
25 dealer. There was no evidence that Mr. Olivares

1 himself would have known or suspected that Mr. Carillo
2 was a drug dealer at the time before he was arrested.

3 And as far as the actual checks, as I
4 said, other than the people's statements which the
5 Government is taking as Gospel and assuming that
6 Mr. Olivares is not telling the truth, they don't have
7 any objective evidence to show who was telling the
8 truth or not. But again, this isn't a trial. We'd
9 just point out that he is presumed innocent of those
10 charges. They are remote, with transactions occurring
11 about six years ago. But more importantly, we do
12 believe that conditions can be set.

13 Specifically, as far as what conditions
14 can be set, Pretrial Services has recommended some
15 conditions. We feel that those are more than adequate.
16 The only one that may present a challenge is regarding
17 the co-surety. Mr. Olivares' parents and sibling are
18 willing to be co-suretors. However, their asset is
19 basically their homestead, and so I don't know if that
20 would be -- it might be a problem. Otherwise, they are
21 citizens, they don't have criminal history. So, if
22 the Court were to allow them to sign on a bond with
23 Mr. Olivares, they would be more than willing to.

24 But what we would ask the Court, if the
25 Court does set release conditions, would be to

1 consider, perhaps instead of having a third party
2 custodian, allowing one or more people to assure
3 Mr. Olivares' appearance and compliance with conditions
4 even if perhaps they don't have independent assets with
5 their homestead to equal the bond amount.

6 And we would also point out to the Court
7 that while we feel these conditions are adequate, the
8 Court is, of course, able to impose additional
9 conditions if it sees fit. Mr. Olivares would be
10 willing to submit to home detention with a GPS monitor,
11 for example. That would address the concern of whether
12 or not he's actually going to be at the parents'
13 address so the Court could monitor it that way, could
14 put all the way up to home detention to where he can
15 only leave for employment and otherwise be at home.
16 The Court could raise the bond amount and raise the
17 deposit amount from what's been suggested by Pretrial
18 Services if it feels necessary.

19 As far as the other conditions, if the
20 Court does set conditions, the only other request or
21 thing I would point out is that Mr. Olivares'
22 employment generally requires him to travel and start
23 in Cameron County and sometimes to the Falfurrias area.
24 So, if he were released, then he would like to be able
25 to travel to those areas. But if the Court wishes to

1 restrict him more narrowly, say just to Hidalgo or
2 Starr or Cameron Counties, then we would of course
3 defer to whatever conditions the Court may set.

4 But given all of his characteristics and
5 especially the fact that he not only did not make any
6 attempts to flee, but continued to make himself
7 available to agents and to the Government even after
8 it became obvious that he was under investigation and
9 could eventually be charged, we believe it all point to
10 the fact that there are conditions that can be set to
11 ensure the appearance at future court proceedings, Your
12 Honor.

13 THE COURT: Okay, thank you.

14 In determining bond, I'm required to apply
15 the factors under the Bail Reform Act and both counsel
16 referred to those. I'm just going to make some brief
17 findings on the record regarding factors. I'll just
18 note that I do take into account, as I mentioned
19 earlier, the information set out in the Pretrial
20 Services Report, so I am considering all that as well
21 as the Indictment, the allegations there, and the
22 testimony of Special Agent Banuelos. And so I'm
23 considering all those things so that even if I don't
24 mention some aspect of this, I've taken that into
25 account.

1 As far as the first factor, the
2 seriousness of the -- nature and seriousness of the
3 alleged offense, in this case the defendant,
4 Mr. Olivares, does face a number of different charges.
5 As Mr. Swartz pointed out, there are significant
6 penalties attached to those, and so I think -- well,
7 first, I do find that, you know, that these are serious
8 charges and brought here in federal court, they are
9 felonies, and carry significant penalties. So that is
10 a significant factor here as far as the nature and
11 extent of the criminal conduct that's being alleged.
12 I also note, as Mr. Sully pointed out and it's
13 important we have to keep in mind, that Mr. Olivares is
14 presumed to be innocent. You know, these findings are
15 all related to the information before the Court for
16 purposes of this bond determination. But none of these
17 findings affect the fact that Mr. Olivares is presumed
18 innocent at this point.

19 As far as the weight of the evidence, I
20 do find there is significant evidence based on the
21 testimony of Special Agent Banuelos. And in fact, the
22 Indictment itself, the detail of the allegations set
23 out in the Indictment would tend to support that as
24 well. That's not to say there are not arguments that
25 can be made as to many of the allegations. Maybe

1 something can be argued about all of them. And
2 Mr. Sully has already suggested arguments that can be
3 raised, and I'm sure they will be raised as the case
4 goes forward. But the overall evidence, the number of
5 different instruments that were deposited, just the
6 nature of these transactions is -- you know, there may
7 be an innocent explanation, but it seems like, you
8 know, that would be a stretch here to say the least.

9 You know, I'm not saying or predicting
10 what will happen, the outcome of the case, but I am
11 saying that for purposes of the bond determination, the
12 evidence at this point appears to be significant. And,
13 you know, it reflects a pattern of fraudulent activity
14 that, you know, appears to be the type of activity that
15 may be related to other types of crimes. And so I just
16 note that about this. Again, there may be some
17 arguments that can be made as to various aspects of
18 this, but there would be a lot to overcome here as far
19 as the evidence that, you know, the Government has at
20 this point.

21 As far as the personal circumstances and
22 characteristics of the defendant, I think both counsel
23 have argued their side of that well. I think that
24 the -- as far as Mr. Olivares' personal circumstances
25 and characteristics, really, the arguments of the

1 Government as well as defense counsel are supported by
2 things that you can -- the facts that you can point to.

3 On the positive side, as far as ties that
4 would be helpful in terms of the Court setting
5 conditions of release for Mr. Olivares, he is a United
6 States Citizen. I mean, he's a rather recently
7 naturalized United States Citizen.

8 Of course, I hope that the allegations
9 against him prove to be unfounded or a big mistake
10 because it's depressing to think that Mr. Olivares was
11 naturalized as a United States Citizen right around the
12 time he's committing what would be serious federal
13 felony offenses. So I hope that something clears that
14 up. But, in any event, he is a United States Citizen.
15 He does have significant ties in the United States.
16 He's been here a number of years, at least 20, and it
17 seems like maybe longer than that since he appears to
18 have been here since he was 15 in the United States.
19 And so his parents are here. He's got his -- I can't
20 remember. I know that at least he has his sister here.
21 And so his ties have been here for some time in the
22 United States. He's had employment in the United
23 States over a number of years.

24 Very significantly, Mr. Olivares does not
25 have any criminal history at all. There's not even a

1 record of any type of arrest or traffic stop or
2 something like that. Or traffic stops wouldn't appear
3 here anyway, but it is a positive circumstance. He
4 doesn't have any criminal history.

5 So those are all positive things that the
6 Court takes into account in determining whether
7 conditions of release can be set.

8 At the same time, there are also
9 circumstances that give cause for concern, and I think
10 Mr. Swartz pointed those out very well. Mr. Olivares,
11 like many people in this area, in addition to having
12 strong ties in the United States, he also has strong
13 ties in Mexico. So, you know, that by itself is
14 certainly not a bad thing. As I mentioned, you know,
15 fairly often in these cases the reason it's an issue
16 at this point and a reason that we talk about it in
17 connection with someone charged with crimes, especially
18 here in Federal Court, that carry significant penalties,
19 is that if someone has somewhere else that they can go
20 and are comfortable to avoid charges that may result in
21 a significant period of imprisonment, if there is a
22 conviction, then that's something that we have to take
23 into account as far as whether a person is likely to
24 appear.

25 So, you know, in that context,

1 Mr. Olivares is obviously perfectly comfortable in
2 Mexico. He spent the first 15 years of his life there.
3 He goes there frequently, now travels there frequently.
4 Again, there's nothing wrong with a person going back
5 and forth into Mexico. And, you know, in other
6 circumstances that's a nice thing. But in this context
7 it's a factor to be taken into account.

8 Part of his explanation, I guess, to
9 Pretrial was that he was caring for a maternal
10 grandmother's sister. As far as the number of --
11 although he indicated he also goes there for his own
12 medical treatment, which again is something that people
13 in this area do often for economic reasons.

14 So he does have strong ties in Mexico and
15 travels there frequently as reflected by the crossing
16 patterns. And I don't know if Mr. Sully was trying to
17 suggest that maybe it wasn't always Mr. Olivares in
18 the vehicle that had his license plates, but I mean,
19 Mr. Olivares and his family acknowledged that he
20 travels into Mexico frequently. So I think that's just
21 a circumstance we have here.

22 So, in looking at all the factors,
23 ultimately, the determination as to whether there are
24 conditions that would reasonably assure the person's
25 appearance at future court appearances and also

1 reasonably assure the safety of the community, I don't
2 think there's an issue as far as safety of the
3 community really here, at least not one that -- I think
4 that's something that certainly could be addressed by
5 conditions. And really, the nature of the alleged
6 offenses here are not that type of activity, at least
7 not directly, that would give rise to those concerns as
8 far as community safety. There is certainly a concern
9 with regard to fraud and money laundering and those
10 types of issues, but the main issue here is whether
11 there are conditions that would reasonably assure the
12 appearance of the defendant.

13 And on that, I do conclude that in this
14 case there are conditions that may be able to be set
15 that would reasonably assure Mr. Olivares' appearance
16 at future proceedings. I do believe, though, that
17 different and additional conditions would be necessary
18 to really reasonably assure his appearance, and so I am
19 going to modify the conditions recommended by Pretrial
20 Services in a couple of respects.

21 First of all, with regard to the bond,
22 given the situation here, given the amounts that were
23 involved, this was dating back some years. But at the
24 same time, given that activity and given the potential
25 penalties and Mr. Olivares' significant ties in Mexico,

1 I do find -- and given also that there's certainly
2 allegations of fraud and deception that are being made
3 here and some of the circumstances do, you know, give
4 pause as far as the Court being assured that he would
5 comply with conditions of release, and so that's one of
6 the reasons why I think that some other conditions
7 would be needed.

8 And with regard to the bond, I'm going to
9 set the bond at a \$100,000 bond with a 10 percent
10 deposit. Even that, I mean, that's not a huge amount
11 by any means, but at the same time, it may be something
12 that might be difficult here with Mr. Olivares and his
13 family's situation. I'm also going to require that at
14 least one co-surer sign with him. And this would need
15 to be a situation where there's actual security, at
16 least a significant amount, that would help secure the
17 bond. In this case, you know, sometimes we have a
18 co-surer to sign that would be more of a responsible
19 person that may or may not have assets up to the amount
20 of the bond, but in this case I do find that there
21 needs to be significant actual security that would be
22 available. You know, hopefully, there are family or
23 extended family or others that may be appropriate to
24 assist with that in terms of -- and I'm not setting
25 this in order to have it result in Mr. Olivares'

1 detention. In fact, you know, I'd just enter order a
2 detention if that was the case. But I do at the same
3 time feel that there needs to be significant security
4 here, and so that will be the bond condition.

5 As far as Mr. Olivares, sir, if you are
6 able to meet the bond and are released on that bond,
7 essentially, sir, just so you're aware, no one will
8 lose anything on the bond as long as you make all your
9 court appearances and take care of this. Any money
10 that's deposited with the Court in this case -- I've
11 set the deposit at \$10,000 -- that money would be
12 returned in full to whoever deposits that as long as
13 you make your court appearances and take care of this.
14 The remaining amount of the bond, no one would have any
15 obligation on that so long, again, as you take care of
16 this and appear in court. If you were to fail to
17 appear, the amount of the deposit would be
18 automatically forfeited. The remaining amount would be
19 forfeitable against any property that you may have now
20 or obtain later, but also, perhaps more significantly,
21 whoever signs with you, any property they might have,
22 whether it be land or vehicles or furniture or whatever
23 the case may be.

24 Sir, it's very important to be careful to
25 comply with all the conditions. I'm going to explain,

1 if you violate any conditions, that could result and
2 it's likely it would result in your having to appear
3 before the District Court Judge. Your bond could be
4 revoked. It could have other negative consequences as
5 far as the outcome of your case here.

6 I am going to -- there's a standard
7 condition that will be set here, and that is that you
8 would need to report to Federal Pretrial Services.
9 That would be a Federal Probation Officer. You just
10 need to follow their instructions on how to report and
11 how often to do that, sir.

12 It is a condition that you try to seek
13 and -- that you seek and maintain employment. I have
14 noted that, and one of the things I've taken into
15 account, it appears that Mr. Olivares has had a pretty
16 consistent employment record including that he's been
17 employed over the last eight months with a particular
18 employer. And one of the things I am going to require
19 as a condition is just that we have confirmation from
20 his employer as far as, you know, that he is employed
21 there and he has been working there and to have that
22 confirmation before Mr. Olivares' release. Hopefully,
23 he would be able to continue with his employment while
24 he's on release. But if for some reason that
25 employment was not available, then it would be -- a

1 condition would be that he try to seek other employment.

2 You will need to restrict your travel and
3 remain within the -- I'm going to say, as far as the
4 travel restriction, it will be Starr and Hidalgo
5 County. I gather that those are the areas where you
6 need to travel for work, Mr. Olivares, so we want you
7 to be working if you're able to do that. If there's
8 some need to travel outside that area for work, then
9 your attorney could move to amend that and we can
10 consider that.

11 As far as the travel restriction, though,
12 I'm going to impose an additional, more significant
13 restriction that will kind of overshadow, as far as
14 those counties, the travel restriction. I am going to
15 impose a condition of home confinement with GPS
16 monitoring. And the reason for that is just so we want
17 to be sure that, you know, given Mr. Olivares' travel,
18 that he does remain. It's a condition, sir, that you
19 remain within those areas and within the United States
20 while your case is pending. And this condition is
21 meant to just ensure that he is residing at the place
22 of residence that's indicated here. Of course, it's
23 not a condition that really prevents somebody from
24 actually leaving, I recognize that, but at least it
25 would be a condition here I think that would be

1 appropriate and necessary to be sure that it's clear
2 where Mr. Olivares is residing and that he's not
3 traveling in areas where he shouldn't be as far as
4 while this case is pending.

5 If you have a passport, you do need to
6 surrender that. That will be returned. The probation
7 officer will hang onto that and return that when your
8 case is resolved. It is a condition you not apply for
9 any passport or travel papers.

10 And other than -- so Pretrial Services,
11 the probation officer, they will be able to excuse
12 absences for work or medical needs or things like that,
13 sir. Otherwise, you -- and even the absences that are
14 excused or authorized, you need to be careful. As far
15 as the GPS monitoring, they will be able to know, you
16 know, where you are and so forth, so it's important to
17 be where -- the places where you should be. So please
18 be careful about that. Again, that's one of those
19 things, if you violate the travel condition there, it
20 could result in your bond being revoked or other
21 negative consequences for your case here.

22 Sir, it is a condition that you not
23 possess any firearm or dangerous weapon. I'm not aware
24 of any firearms that might be located at your residence
25 or your parents' residence, but if they do happen to

1 have a hunting rifle or a handgun or anything, those
2 would need to be removed and placed somewhere where you
3 could not obtain possession of them while your case is
4 pending.

5 It is a condition that you need to submit
6 to a mental health evaluation or counseling or
7 treatment as directed by the probation officer. That
8 would be intended to assist you, sir, and so I'd just
9 urge you to take advantage of that. But you would also
10 need to participate in anything like that as far as
11 your conditions of release.

12 If you have any contact with a law
13 enforcement officer for any reason, you need to just
14 explain whatever that is to Pretrial Services. Even if
15 it's a traffic stop that doesn't result in any ticket,
16 you just need to describe whatever contact you may have
17 had with a law enforcement officer.

18 It is a standard condition that not have
19 contact, directly or indirectly, with any co-defendant
20 or any potential witness or anyone else who may have
21 some involvement in connection with the charge being
22 brought against you. And, sir, one of the reasons for
23 that is that if you're in contact with someone who has
24 some connection to this, it might make it appear that
25 you're involved with something else related to this,

1 which may make it more difficult for you to resolve
2 your case and have an effect on any sentence. So, sir,
3 you do need to avoid contact, directly or indirectly,
4 with anyone in those categories I just mentioned. And
5 what I mean by "indirectly" is that you can't send or
6 receive a message through another person, you can't
7 text anybody or have any contact electronically --
8 instant message, Facebook, any other way you can think
9 of -- with anyone in those categories that I mentioned.

10 Having said that, your attorney will be
11 able to contact people for you and interview people for
12 you to assist you in your defense, as appropriate. So
13 that certainly can be done as far as, you know, being
14 able to defend yourself in this case. But you should
15 not be in contact with anyone like that.

16 Your sister was mentioned. I'm not going
17 to tell you you can't speak with her, but you should
18 not discuss the circumstances of the case with her.
19 You know, your attorney can work with her for you, on
20 your behalf. But obviously, living there at the same
21 residence and being your sister, I'm not going to say
22 you can't speak with her. But as far as anyone else is
23 concerned, you shouldn't have, again, any contact or
24 communication directly or indirectly.

25 I believe that may be about it as far as

1 conditions. And if I forgot any, the standard
2 conditions would apply here that go along with these
3 things.

4 And so, Mr. Sully, again, this is a case
5 where I do feel that based on the circumstances, we
6 would need to have some security, and it sounded like
7 from what you said earlier that that might not be
8 available now. And so, you know, after reasonable
9 effort, if there is no way to meet that condition, you
10 could file a motion to request that that be amended
11 and at that point, you know, we would have to consider
12 whether there are other conditions that would
13 reasonably assure the appearance of Mr. Olivares or,
14 you know, whether -- or not, I guess, basically. And
15 so I note that.

16 And also, as far as that security goes, I
17 appreciate that Mr. Olivares' sister is willing to --
18 you know, wants to help her brother, which is certainly
19 a good thing and a nice circumstance. But, you know,
20 there was some testimony about, you know, her coming
21 up in connection with some of the facts here. I'm not
22 suggesting, you know, anything about that as far as
23 implying her involvement or something like that, but it
24 appears that, you know, one way or another, she may be
25 connected to this as far at least factually. And so I

1 think that as far as any kind of co-suretor or
2 something, we'd be better not to try to rely on her
3 given that circumstance. But otherwise, the Government
4 has the right to -- as far as the security to be aware
5 of what's being presented for that, if you're
6 requesting that, Mr. Swartz?

7 MR. SWARTZ: Yes, Your Honor. I think Your
8 Honor has adopted the point that I was going to make
9 partially with respect to Mr. Olivares' sister being a
10 co-suretor, or not being appropriate as a co-suretor.

11 There was at least one other individual
12 mentioned in the testimony of Special Agent Banuelos:
13 Esmeralda Trevino, who is an associate of Mr. Olivares
14 and at least at some point shared a bank account
15 together. She also was implicated. She's the mother
16 of Mr. Carillo. I would ask, I think with respect to
17 her, that she would not be an appropriate co-surety.

18 There are other individuals sort of
19 associated. And the Government would request that if
20 there is a co-suretor, that they not be somebody who's
21 implicated in the scheme that's at the center of the
22 investigation.

23 THE COURT: Okay. I mean, I think that's
24 certainly appropriate and that's what we would do in
25 any case, really. In any case, if it turns out that,

1 you know, the co-suretor might be a witness, even, or
2 linked somehow, that it's just better not to get into
3 that situation.

4 Okay. So, with that, thank you both. I
5 think Mr. Sully and Mr. Swartz, both of you did an
6 excellent job in arguing for your clients here and I
7 appreciate the presentation of the evidence, which I
8 think helps. I'd much rather have, you know, plenty to
9 go on than to feel that I'm trying to -- having to help
10 out one side or the other fill in the gaps or something
11 like that. Both of you were thorough and did a good
12 job for your client, so I appreciate that.

13 MR. SULLY: Thank you, Your Honor. I had one
14 clarification, one request, Your Honor.

15 MS. GARCIA: Yes.

16 MR. SULLY: Regarding the travel, would it
17 just be Hidalgo and Starr or Cameron and I think
18 Willacy is the other one?

19 THE COURT: So I was just going off the
20 Pretrial Report that just indicated that he travels for
21 work in Starr and Hidalgo County. If you're saying
22 that maybe that will be part of the -- you could submit
23 that as part of the kind of confirmation of his current
24 employment. I mean, that is one of the things that I
25 was wanting to see as far as to kind of verify that in

1 fact he has been employed. And if it's the case that
2 his employer would need, you know, him to travel for
3 work in those other counties, if they can indicate
4 that, then I think that's fine. I'd rather see
5 Mr. Olivares working. And so I think we can address it
6 that way.

7 MR. SULLY: Very well, Your Honor. And then
8 the other request I had was just Mr. Olivares has
9 indicated that he is not receiving his anxiety
10 medication. And also where he's being held, I think
11 the lights are on throughout the night, which he
12 already has problems sleeping. So perhaps that's a
13 situation that I think may take some time before we get
14 all these conditions, Your Honor, to make sure that his
15 needs are being met.

16 THE COURT: Okay, and I will ask the marshals
17 to follow up with -- we want Mr. Olivares to be healthy
18 physically and mentally, and I'll ask the marshal to
19 follow up as far as his medication. And I know that
20 they can't, you know, just have somebody bring by a
21 medication or something like that, so that he may need
22 to be visited by a doctor there to get them to issue
23 that. But in any event, I'll ask the marshals to
24 follow on that.

25 And as far as the lights, I'm not sure

1 what that circumstance is, but I'll ask the marshals to
2 look into that. If it's -- you know, I'm ultimately
3 going to leave it to their discretion as far as if
4 that's the situation generally for, you know, the
5 people at the facility, then, you know, hopefully we
6 can help out with getting Mr. Olivares the medication
7 he needs and other assistance. So, if that's a
8 circumstance that -- in fact, I'll ask the marshal to
9 look at that, and if it's a circumstance that shouldn't
10 be going on, certainly to get that corrected. But I'll
11 leave it to them ultimately as to whether, you know,
12 that is something that can be or should be addressed.

13 MR. SULLY: Yes, Your Honor. It sounds like
14 he may be in the hole, and so -- and which would be
15 different from all other inmates are, which I don't
16 understand what the need would be. So actually with
17 his mental health issues, that would actually be worse.
18 So if that's --

19 THE COURT: Right. And, yeah, I'll ask them
20 to look into the circumstances he's in. I mean, I
21 understand that at least initially, I think most
22 individuals are separate when they -- at the very
23 beginning when they are, you know, awaiting medical
24 information and things like that. So, hopefully, maybe
25 it will be something that will resolve itself. Again,

1 I'll ask the marshals to look at that.

2 MR. SULLY: Thank you, Your Honor.

3 THE COURT: Okay, thank you. Y'all can be
4 excused, then.

5 **[5:52 p.m. - Proceedings adjourned]**

6

7 C E R T I F I C A T I O N

8

9 I certify that the foregoing is a correct
10 transcript of the electronic sound recording of the
11 proceedings in the above-entitled matter.

12

13

14 /s/ Gwen Reed

15 7-28-19

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